UNIVERSITY OF PENNSYLVANIA

THE HISTORY OF EXPORT AND IMPORT RAILROAD RATES AND THEIR EFFECT UPON THE FOREIGN TRADE OF THE UNITED STATES

BY
ROLAND LAIRD KRAMER

A THESIS
IN ECONOMICS
PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR
THE DEGREE OF DOCTOR OF PHILOSOPHY

PHILADELPHIA
1923

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To My Wife

and

My Parents

FOREWORD

Among the railroad freight rate structures of the United States, there is probably none which appears to harbor discrimination and violate the act to regulate commerce more than does the export and import rate structure. Not only the effect of these freight rates, but also the very principles upon which they are based, are frequently misunderstood. Their influence is exerted not only on American producers but also upon railroad and steamship lines, ports, the tariff and other agencies which are involved in foreign trade.

It was with reference to the tariff that the author began the study of this subject in the summer of 1920. At that time he assisted Prof. Emory R. Johnson who was engaged on a report to the United States Tariff Commission. This report was published under the title "Preferential Transportation Rates." The principal study made by the author in this investigation is here reproduced as Part I. The second section of the present volume presents briefly the rate structure as it is today and manifests the factors which are traced in the historical discussion. In the final section, Part III, the theoretical and practical phases of export and import railroad rates have been applied to such important subjects as the foreign trade, the import tariff and the merchant marine.

To Professor Johnson, for his counsel and guidance and to Prof. Grover G. Huebner, for his criticism and interest, sincere acknowledgment is here made.

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Part I—The History of Export and Import Railroad Rates

INTRODUCTION

After the rail carriers began actively to compete for foreign business, there grew up the practice of quoting through rates to and from foreign destinations on a through bill of lading. These through rates were divided between the railroad and the steamship line according to some agreed formula. The history of special import and export rail rates reveals the different methods pursued by the roads in fixing the inland proportion of the through rate. This proportion had to be fixed in such a way that all parts and sections of the United States might share in the export and import business. It was soon evident that in order to secure such traffic, rates had to be established which were lower than contemporaneous rates on domestic shipments, there being no widespread competition for the latter. Rate wars were frequent because of one road quoting an especially low rate to attract the traffic, and only by agreements could these disastrous occurrences be avoided.

The necessity from the standpoint of the carriers for special rail rates on imports and exports was early pointed out by Albert Fink, Commissioner of the Trunk Line Association. In his "Report Upon the Adjustment of Railroad Transportation Rates to Seaboard Cities" published in 1881, he states as follows:

> If there was no competition for the export traffic between the trunk lines or seaboard cities, the pro rata principle applied to domestic traffic would work satisfactorily to all parties. But as the through rates through the various cities to foreign destinations must be made with a view to meeting competition in foreign markets, that is, must be substantially the same via all routes, and the Trunk Lines are simply links in the through route between the common points of competition in this and foreign countries, the proportion of the through rate, or that proportion of it which the Trunk Lines can charge, must be determined with regard to the competition in export trade, and that proportion may and does greatly differ from the domestic rates established upon a pro rata principle.

Further complication arises from the fact that over one link in the through route—over the ocean—the rates cannot be adjusted by agreement, but are always open and always changing.

The difficulties of the adjustment of rates to the seaboard cities arise, therefore, from the dual position of the Trunk Lines as carriers of domestic traffic to the seaboard cities and as competitors for through European trade, having the ocean as a link in the through route.

These competitive forces, both here and abroad, are largely responsible for the special export and import rates as developed by competing rail carriers. This fact is clearly shown by the following historical sketch of the development of the rates. Special export railroad rates were quoted before concessions were made in the rates on imported articles; hence the history of the export rates will be considered first.

I

Export Rates: The Growth and Development of Export Rates

Early Growth and Development.—Probably the most interesting and authentic information obtainable relative to the origin and development of the export business of American railroads, can be obtained from the testimony of George R. Blanchard, before the Special Committee on Railroads of the New York State Assembly (Hepburn Committee) in 1879. He stated the situation as follows:[1]

> At the time the Trunk Lines were opened from the West to the East, of course, all through freight . . . passed entirely through the hands of persons at the termini of the roads, who paid the freights, took the property away, and what subsequently became of it was a matter of which the railroad companies had no knowledge. The rates were made only to the seaboard; the deliveries were made to the seaboard to the consignees; . . . and then, on various articles, the parties to whom it was consigned would sell a portion . . . here, and export a portion . . .

As the business increased and a demand sprang up for our products abroad, inspections were established at the ports. These inspections assorted, packed and prepared merchandise for foreign shipment, receiving a fee from the exporter for this service. Up to this time, however, "there was no such thing known as a through bill of lading from the West to Liverpool."

> When the Grand Trunk Railroad was built (somewhere in the '50's) it was put there almost exclusively by the capital of England and the Dominion, and that was one of the inducements held out for the expenditure of capital, that the relations of the Dominion to the mother country would be made more intimate by the exchange of property by through joint bills of lading.

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[1] Special Committee on Railroads of the New York State Assembly, 1879, p. 3139.

In order to induce vessels to come to the ports of Montreal or Portland, Me., the Grand Trunk was required to make guarantees of a fixed amount of eastbound cargoes. Because of these contracts, through bills of lading were issued at any rate which was necessary to place that tonnage there.

> Almost simultaneously with the opening of the Grand Trunk Railroad . . . perhaps but a little after, the foreign freight agent of the Lake Shore Company of Chicago, procured the rates of the ocean steamers, originally, I think, from Boston, and adding to those rates the inland rates at the tariff, plus certain charges at the port, inspection and delivery, etc., . . . guaranteed particularly on provisions at Chicago, a through price to Liverpool. That began in a very small way, and at first it was believed that it would not be successful, because upon the presentation of the bill of lading at Liverpool, the steamship company, in the event of damage, might decline to settle, and they did not at first favor this thing at all; but the Grand Trunk Company having a contract . . . it became ultimately a necessity to do something of that kind through the American ports, or lose through the Grand Trunk Company almost the entire growth of this business. As soon as it had been done at Boston, of course, similar efforts were made at New York. Very little of that business was done at Baltimore or Philadelphia for the reason that Baltimore during the war, had no steam connection with Liverpool whatever.

Immediately after the Civil War, however, the Baltimore & Ohio Railroad acquired several steamers for use in the Liverpool trade. The Pennsylvania Railroad Company, induced by jealousy of the Baltimore & Ohio, constructed a large elevator at Philadelphia, the first one built by any Trunk Line on the seaboard. Docks and terminal facilities were gradually acquired by all roads, and the system of inspection soon became unnecessary, as the vessels came directly to the railroad piers. In some cases contracts existed between the rail and ocean carriers, "in which, in consideration of the coal, which was reduced in price, the delivery of the coal, the free dockage, and various other things, the steamship companies agreed to give to the railroad companies those guarantees both as to rates of freight and their continuance for one or two weeks that they had formerly been unable to get." Previously, railroads, in quoting through rates, had found it necessary to add an excessive rate in order to take

care of fluctuations in the ocean charge. This guarantee enabled the railroads to go into the West and receive freight from forwarders in preference, if they paid a little more, quoting a through rate and gradually developing the system of foreign bills of lading.

> Now New York during this time had no such facilities, and the circumstances of the business of the ports were almost entirely different. It is well known . . . that none of the steamship lines would, under any circumstances, send one of their ships, after advertising its regular sailings, away from its own docks, to the docks of the railroad company; because they carry a large number of passengers, and they have delivered to them freight from numerous sources; so that to go to the docks of any one of these railroads at New York, with the magnitude of the general commerce, would be simply to require the cartage or handling of all other than the through business or delay sailings; therefore, they have positively declined . . . to send any one of these vessels to the docks of the railroad companies. It, therefore, became a necessity of the railroad companies of New York, that if they desired to compete with the steam lines, that ran right alongside the tracks and depots at Baltimore and Philadelphia, and where these considerations did not influence those cities, to deliver freight alongside of the vessels, either in cars upon their floats, barrels of flour upon lighters, and grain in canal boats—by these three various methods of delivering.
>
> The New York lines have repeatedly sought from the New York steamers the right to make rates by the way of their steamers, in the West (as is done by the Pennsylvania, the Baltimore & Ohio and the Grand Trunk), and just as often as they have asked for it, just so often they have been refused, for the reason that the aggregate of "spot" tonnage and the aggregate of the arrivals by the canal here make these gentlemen independent of the railroads at New York, while at Philadelphia, Baltimore, Boston and Montreal they are dependent upon the railroads.

The only way in which New York lines were able to compete for this through business was occasionally to take the chances as to the probable ocean rates two or three weeks in advance; and in some cases, when the ocean rates advanced before delivery of merchandise to the steamers, the railroad was forced to accept a much smaller proportion of the through rate for its haul, than the regular tariff specified.

In 1876, the prominent freight agents of the various Trunk Lines were instructed to visit the New York agents of the steam-

ship lines, in order to ascertain whether or not they would co-operate with the New York railroads in the quoting of through rates. No success was attained at this conference.

Commodities Early Favored with Special Export Rates.—From additional information available it appears that probably the first particular commodity on which Trunk Lines quoted special export rates was cotton. Soon after its organization, the Trunk Line Association formed a Permanent Cotton Committee, which was to recommend cotton rates from time to time. Thus, on March 8, 1880, the rate on cotton from Memphis to New York for export was fixed at 67 cents per 100 pounds; on March 30, 1882, this rate had been reduced to 52 cents. So important was this traffic considered, that on September 7, 1880, the Cotton Committee was given full power to change rates whenever necessary in order to meet competition via the Gulf and South Atlantic ports.

Tobacco was another commodity on which special export rates were early quoted. Grain, however, was the principal commodity calling for special rates for export via several routes. From the testimony secured in the export rate case of 1899,[2] it appears that on September 8, 1880, the rate on flour for export from Kansas City, Mo., to New Orleans, La., was 27 cents per 100 pounds, as compared with 32 cents for domestic consignments to New Orleans. This low rate was put into effect by the Gulf Lines in order to secure some of the grain traffic from the Trunk Lines. Wheat was carried at the same rate as flour, which was the same for export as the domestic rate on this commodity at that time. During the succeeding two decades this rate was reduced nearly two-thirds.

In 1889, the Trunk Lines from Minneapolis to New York quoted a special export rate of 30½ cents on grain, grain products and corn. This was followed the next year by a rate of 28 cents on export corn from the Central West to Galveston, and in 1891 oats were included at the same rate. Competition between lines serving the North Atlantic and Gulf ports, how-

[2] In the matter of Relative Rates Upon Export and Domestic Traffic, etc., 8 I. C. C. 214, 1889.

ever, did not become severe until 1896, when export rates on grain began to show a steady decline. In the competition between the lines serving the various North Atlantic ports, there developed the method of establishing their relative position by Port Differentials. This question has been in controversy ever since 1869, when the first differential became effective. Although Port Differentials must be distinguished from special import and export rates, yet in this early period, characterized by the quoting of through rates to and from foreign points, they are practically analagous, inasmuch as such inland rate formed an indistinguishable part of the through rate.

Development of Port Differentials.—Baltimore was the first city to receive a differential freight rate. In 1869, Baltimore was granted a differential of 10 cents per 100 pounds on grain, and after a war of rates, this was reduced to 5 cents in 1870. By 1876, there was the same difference on grain and low-class freight, while on first, second and third classes of freight, the differential was 10 cents per 100 pounds. On west-bound freight, both Baltimore and Philadelphia received a fixed differential under the New York rate.

In 1870, by agreement among the Trunk Lines, Boston was permitted to quote the New York domestic rate on merchandise for export; on domestic shipments to Boston, the agreed differential over New York rates was charged. This concession to Boston has remained in effect up to the present time and constitutes one of the first specific special export rates of which there is any record. At the same time Portland was placed on a parity with Boston and Montreal was granted a differential of 1 cent below the New York rates.

On April 13, 1876, the principle of fixed differences in rates was abandoned and a tariff adopted which was based upon the relative distance of the North Atlantic ports from common western points. "According to this tariff the rates from Chicago to Baltimore were 13 per cent, and to Philadelphia 10 per cent, less than to New York, from Cincinnati to Baltimore 24 per cent less, and to Philadelphia 12 per cent less than to New York."[3]

[3] Albert Fink, "Report Upon the Adjustment of Railroad Transportation Rates to Seaboard Cities," 1881.

This principle, however, failed to take cognizance of the controlling factor of competition and after a trial of one month and a half, the New York lines withdrew from the agreement, claiming that too great an advantage was given to Philadelphia and Baltimore.

After another rate war had been waged, an agreement was entered into in 1877 according to which fixed differences were again adopted. On east-bound traffic, the differentials in favor of Baltimore and Philadelphia were, respectively, 3 cents and 2 cents less than to New York. On westbound freight, this same difference prevailed on third- and fourth-class goods, but on first and second classes, the differential to Baltimore was 8 cents, and to Philadelphia 6 cents.

The principle which impelled this arrangement was the desire to equalize "the aggregate cost of rail and ocean transportation between competing points in the West, and all domestic and foreign ports reached through Baltimore, Philadelphia and New York."[4] Moreover, the agreement of December 18, 1876, which was in effect but a short time, provided "that all competitive freight shipped on through bills of lading to Europe . . . shall be at the same through rate to destination, whether through the cities of Baltimore, New York, Boston or Portland."[5] All freight shipped to these points and afterward exported was declared to be competitive. This through rate was to be uniform "at not more than the sum of the ocean and rail rates, which added together through one and the same port produces the lowest through prices."[6] On all local freight from competitive western points to these ports, fixed percentage differentials in favor of Baltimore and Philadelphia were established. This is the correct principle affecting all competitive foreign business, but it is practically impossible to execute because of the fluctuation in ocean rates from each of the ports involved.

In spite of the natural limitations of this policy, several attempts were made to equalize rates on all shipments under

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[4] *Ibid.*

[5] *Ibid.*

George R. Blanchard, Testimony before the Special Committee on Railroads of the New York State Assembly, 1879.

through bills of lading. "A committee of foreign freight agents was appointed in 1876 and again in 1880, to receive daily the quotations of ocean rates from all ports, and to give the lowest quotations jointly to all Western Soliciting Agents, upon which they were to establish the same through rates through the different ports."[7] But the objections to this plan were soon manifest to all parties. After a through rate was once quoted, the exporter would be unable to avail himself of a lower ocean rate which might be currently in effect; and, conversely, the railroads would have to accept an unremunerative proportion of the through rate in case the ocean tariff were increased. If there occurred a decline in a specific ocean rate quoted to a particular carrier, the presumption would arise on the part of other carriers that the inland rate had been cut.

To further complicate the situation, Mr. Blanchard stated that a number of the ocean lines had agents in the West, who issued through bills of lading from Chicago to Liverpool at greatly reduced ocean rates, in case the railroads did not do as they wished them to.

Moreover, the attempted fixing of ocean rates would destroy all competition between ocean carriers and would place upon the railroads the entire responsibility of through rates so fixed. Consequently the agreement of 1876 lasted less than two months.

It was then recognized that the only practical plan to carry out as nearly as possible the principles affirmed in the agreement of December 18, 1876, was to agree upon fixed inland rates to the seaboard, which added to the current ocean rates, would constitute the through rates to a particular foreign destination. As mentioned above, the agreement of 1877 embodied this principle. Manifestly, the differences in rates prescribed in this agreement were designed to equalize the position of the ports by offsetting unfavorable ocean rates to European points. In 1880, the New York Central Railroad Company contended that the arrangement agreed upon in 1877 failed to meet the prevailing conditions of ocean freight rates, and consequently withdrew from the agreement. In support of this stand, the

[7] Albert Fink, "Report Upon the Adjustment of Railroad Transportation Rates to Seaboard Cities," 1881.

New York Central Railroad claimed that a large part of its traffic had been obtained by the roads to Philadelphia and Baltimore, because of lower ocean rates from the latter ports.

Even during the life of the agreement of 1877, evidence was frequently presented at meetings of Trunk Line Committees which proved that the agreed inland rates applicable and established on all foreign shipments were being cut by various roads. Particularly was this the case with the Grand Trunk Railroad Company, and after an investigation of the Joint Executive Committee, it was decided to permit the Grand Trunk to make such rates as it found necessary, in order to secure cargo for one vessel per week clearing from the port of Portland. Efforts to maintain the agreed rates apparently rested upon the honor of the roads, as no penalty more severe than retaliation was imposed. Usually, as in this case, a disgruntled railroad precipitated a war of rates, which terminated in each instance by a new agreement.

Finally, in January, 1882, the New York Central Railroad, the Erie Railroad, the Pennsylvania Railroad and the Baltimore & Ohio Railroad decided to refer the matter of the relative adjustment of rates to an Advisory Commission, which was composed of Allen G. Thurman, Chairman; E. B. Washburne, and Thomas M. Cooley. This commission held hearings in important Eastern and Western cities. Each of the Eastern ports argued for its own respective interests, whereas the Western cities asked for general relief from any conditions which influenced or compelled them to export grain via any particular port. The conclusion reached by the commission was that the existing differentials were not unjust or prejudicial to any interests, but that in the future, changes might become necessary. Moreover, the practice of applying New York rates to Boston shipments, when destined for export was declared by the commission to be fair.

The efforts of the Trunk Lines were again directed to maintaining the inland tariffs as agreed to and as approved by the Advisory Commission. Boston, in her claim of the New York rate for her exports, secured this rate by means of a rebate on the full domestic rate collected. In 1887, after the Interstate

Commerce Commission had been established, the Freight Committee of the Trunk Line Association issued a report as follows:

> That the established inland tariff rates from Western points of origin to Eastern points of export shall be observed on all domestic and foreign exports, except exports via Boston and Portland, when through arrangements exist, as contemplated by law, with connecting ocean carriers, in which event the proportion of the through rates may be the same as, and shall not be less than, the rate from same points of origin to New York. The billing to Boston and Portland at less than inland tariff rates, except on such through bills of lading and the payment of export rebates on business consigned locally to Boston and then exported, shall be discontinued. [8]

Upon the issuance of this report, the railroads serving Boston were undecided whether or not this practice was illegal under the new law. For a time they refused to grant these rebates, with the result that the export trade of Boston became considerably embarrassed. In order to secure relief, the Fitchburg Railroad Company, the Boston & Lowell, the New York & New England, the Central Vermont and the Boston & Albany Railroads petitioned the Interstate Commerce Commission to "authorize the Trunk Lines to bill export freight to Boston at New York rates, or take such other action as may seem best in order that this business may be continued upon as fair and favorable a basis as it has been done hitherto."[9]

The commission held that the rebates which were granted were not rebates within the meaning of the second section of the Act, but were to equalize the port of Boston with the port of New York, with respect to the export trade. Without such equalization, Boston would be excluded from the foreign business. The practice, therefore, being legal, no order was entered by the commission and permission was given to withdraw the petitions.

On November 4, 1887, the Joint Committee of the Trunk Lines ordered that through rates to foreign ports be uniform through all North Atlantic ports by charging the average rail

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[8] Proceedings of Trunk Line Committees, 1887, p. 25.

[9] In the Matter of the Export Trade of Boston, 1 I. C. C. 24, decided April 23, 1887.

and ocean charges in effect at all the ports. This was the third attempt which was made to prescribe through rates to foreign points the same via all ports. The ocean carriers immediately raised their rates, which automatically reduced the proportion received by the rail carriers. The testimony in the New York Produce Exchange case, 1889,[10] showed the extent and effect of this fluctuation.

> The established inland tariff from Chicago to New York from January 2, 1888, to February 11, on bacon, pork, beef, lard and canned goods, was 33 cents per 100 pounds, and on flour 27½ per 100 pounds. The inland proportion of the through rate to Liverpool via New York on January 2, was 25.375 cents on bacon, pork and beef; 24.875 cents on lard and canned goods, and 19.875 on flour. These proportions fluctuated until they fell on February 10, to 17.375 on all except flour, and on flour to 14.625, being about half the established rate on the same articles consigned to New York.

The extent of this demoralization caused the Joint Committee on February 10, 1888, to change the method employed in making through export rates to that of adding to the established inland rate the current ocean rate. Boston was reserved the privilege of quoting New York rates on exports. These inland tariff rates were to be filed with the Interstate Commerce Commission with the statement that through export rates would be made by adding the current ocean rate to the established inland rate.

On March 8, 1888, because of irregularities and discriminations in export rates under the rules of the Trunk Lines, November 4, 1887, and because of complaints thereunder, the Interstate Commerce Commission issued a general order on the subject of special export rates, requiring principally that tariffs on all goods customarily exported from the United States be filed with the commission and be made public; that in all such rates applicable on a through carriage to a foreign country by connecting water lines, the tariff filed must show the rail carrier's proportion and the manner in which through rates may be determined. This order was to become effective March 20, 1888.[11]

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[10] New York Produce Exchange *vs.* New York Central & Hudson River R. R. Co., 3 I. C. C. 137.

[11] *In re* Publication of Export Tariffs, 1 I. C. C. 658.

On April 18, 1888, the New York Produce Exchange filed a petition with the Interstate Commerce Commission averring that the Trunk Lines had failed to conform to the order of March 8th in the matter of filing of tariffs; and that they were making export rates to foreign countries on through bills of lading which were an undue discrimination against the merchants and exporters at New York.[12] This petition opened for official decision the question as to the legality of export rates.

[12] New York Produce Exchange *vs.* New York Central & Hudson River R. R. Co., 3 I.C.C 137, 1889.

II

Export Rates: The Legal Status of Export Rates

Prior to the Decision in the Import Rate Case.—All the railroads, in their answers to the allegations of the New York Produce Exchange, denied that since February 20, 1888, they had made any through export rates in which the inland proportion was less than the rate on domestic shipments. The Pennsylvania Railroad Company appeared to be the only carrier in favor of making through export rates on through bills of lading, and it developed that this was because it had made arrangements with steamship lines for this through carriage which the other roads had failed to do.

The testimony in the case revealed some interesting facts relative to the actual rates charged from time to time. In spite of the fact that rates, as published, were the same for export as for domestic traffic, except for the short periods mentioned, it was stated at the hearing that for the last eleven years, the established rates had not been maintained for more than thirty days. In other words, ever since the agreement of 1877, special rates had been accepted by the carriers on goods destined for export, such rates being lower than the established inland tariff. The extent of the discrepancy was so great, it was shown, that at times the domestic rail rate to New York was greater than the total through rate to the foreign destination. The particular complaint in this regard, as stated by the commission, was that from November 4, 1887 to February 20, 1888, the Trunk Lines "made through export rates of which the inland proportion accepted by them was, at the port of New York, often 10 cents or more per 100 pounds less on like traffic than the published tariff rates charged at the same time to the same port."

The carriers contended that in order to market the surplus

products of the country in foreign markets, they must be able to make whatever rates they found necessary to enable these products to meet foreign competition. The complainant argued that any disparity whatever between rates on domestic and export consignments was an undue discrimination and in violation of the act. As the carriers produced no proof of their contention, the commission failed to recognize any circumstances or conditions to justify a difference in the rates. It pointed out that the only practicable method of making export rates, as shown by the light of experience from 1877, was to add to the established inland tariff the ocean rate currently in effect, the total to be the through rate charged. Moreover, the amendments of March 2, 1889, requiring ten days' notice of advance, and three days' notice of reduction of rates, rendered it impossible to quote joint through export rates which were constantly fluctuating.

> The necessary conclusion is that in making and publishing export tariffs, the rate to the seaboard should be specified and should not discriminate against the inland tariff rate unless justifiable conditions exist for a difference. It is not shown that such conditions exist at New York, and very clearly they do not exist.
>
> The decision of the commission is that the order of March 8, 1888, stand and continue in force as promulgated, and that the several defendants cease and desist from unjustly discriminating in their rates and charges for inland transportation, between traffic consigned on through bills to foreign ports from interior points, and like traffic consigned to the seaboard.

Shortly after this decision the Interstate Commerce Commission called a conference of all the Trunk Lines for the purpose of showing what their export rates were and how they were made, and stating their views as to the possibility of publishing their tariffs as required. Only a few of the carriers expressed any difficulty in complying with the provisions of the act, as amended March 2, 1889, requiring ten days' notice of increase in rates. Consequently on March 23, 1889, the commission issued a general order stating, among other things, that tariffs covering goods destined for export are subject to the requirement of notice of change therein, the same as are

other tariffs, and "that imported traffic transported to any place in the United States from a port of entry or place of reception, whether in this country or in an adjacent foreign country, is required to be taken on the inland tariff governing other freight."[1]

This order turned more upon the question of import rates under which caption it will be discussed, but gave rise to a discussion with the southern railroads with reference to its effect upon their export traffic. A conference was called by the commission, in which the carriers pointed out the difficulty of securing sea-going vessels at the South Atlantic and Gulf ports. This, they claimed, practically eliminated the competition of vessels, which prevailed at the North Atlantic ports, and gave rise to irregularity in rates. Only by charter, with guaranty of cargo or by some form of subsidy, could vessel service be secured. When such a ship had been procured, it became necessary for the rail carriers to supply a cargo within a short time, in order to keep down demurrage charges.

In consequence of these conditions, consignments frequently must be taken at reduced rates, giving rise to the practice of making a through export rate from day to day, varying every twenty-four hours with the ports and the ocean rates currently in effect. This rate was entirely independent of the established inland rate, and was applied principally to cotton, and to a small extent, to tobacco. The decision of the commission relative to this situation was deferred until 1899, when a thorough investigation of all export rates was conducted.[2]

Subsequent to the Decision in the Import Rate Case.—In 1897, the question of the Philadelphia and Baltimore differentials, which applied on export the same as on domestic traffic, was brought before the Interstate Commerce Commission on complaint of the New York Produce Exchange.[3] It was contended that these differentials gave Philadelphia and Baltimore an unfair advantage over the port of New York.

After due consideration of all the facts, the commission

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[1] I. C. C. Circular, 658, March 23, 1889, 2 I. C. C. 658.

[2] In the Matter of Relative Rates on Grain and Grain Products, etc., 8 I. C. C. 214.

[3] New York Produce Exchange *vs.* Baltimore & Ohio R. R. Co., *et al.*, 7 I. C. C. 612, decided April 30, 1898.

decided that existing competitive conditions justified this disparity in the rates. No evidence could be produced to show to what extent New York had suffered from these differentials. The Supreme Court in the Import Rate Case[4] having decided that competitive conditions might justify a difference in import and export and domestic rates, and as this discrimination was just and reasonable, the commission ruled that the existing differentials should continue in force.

The legality of the Boston export rates was again brought before the commission in 1899 in a formal complaint, Kemble vs. Boston & Albany Railroad Company, *et al.*, 8 I. C. C. 110.

The complaint was that on local shipments to Boston, the rate on grain and sixth-class merchandise was 2 cents above the New York rates, while on consignments for export, the rate was the same as the New York rate. It was contended that this was an unjust discrimination and in violation of section 4 of the act.

The practice complained of in this case is analogous to that in the case of the New York Produce Exchange *vs.* New York Central & Hudson River R. R. Co., 3 I. C. C. 137,[5] and which was declared to be illegal by the commission. Since that case, however, the Import Rate Case had been appealed to the Supreme Court and it was decided that carriers are not prohibited from making through import and export rates the inland proportion of which is less than the established inland tariff of the carrier.[6]

In the light of this decision, the commission ruled, on March 7, 1899, that the granting of a lower rate for export, than for domestic shipments, is not illegal. "Investigations . . . show that a difference in the freight rate of between one-fourth and one-eighth of a cent per bushel determines the route by which grain shall be exported. Now, the ocean freights from Boston and New York are substantially the same. It follows, therefore, that the inland rate must also be the same or no traffic would move through the port of Boston. . . . The export rate to Boston is not in reality a Boston rate at all, but

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[4] See p. 44.
[5] See pp. 19-21, *Supra.*
[6] See p. 48.

is in essence the inland division of a through rate through that port to foreign ports. That the inland carrier may receive in such case for its division a sum less than the domestic rates has been . . . determined by the Supreme Court of the United States; . . ."

On March 30, 1896, the Supreme Court in the Import Rate Case[7] held that the Interstate Commerce Commission had erred in ordering the defendant roads to cease charging less for their proportion of a through rate on goods shipped from foreign countries to the United States on through bills of lading, than for domestic shipments over the same line and in the same direction. Although this case considered the question of import rates, an interesting inference may be drawn in reference to export rates, from the following facts:

On April 15, 1896, the roads leading from Kansas City, Mo., to New Orleans, La., put into effect a rate of 27 cents per 100 pounds on rye, barley, oats and corn, for export, this being the first special rate quoted on these commodities via that route. By the next year, this rate had declined to 18 cents and flour was carried for 21 cents. When the commission made its decision in the investigation of the subject in 1899, corn was receiving an export rate of 10 cents and wheat was carried at the same figure, revealing a reduction of over 60 per cent since 1880.

The roads from Kansas City to Galveston, Tex., had but two export rates on grain prior to the decision of the Supreme Court in 1896. These were a rate of 28 cents on corn, established in 1890, as compared with a domestic rate of 48 cents, and an export rate of 28 cents on oats, effective in 1891. On February 16, 1896, the rate on corn was quoted at 27 cents; on July 1, 1896 at 16 cents, and on July 31st, the rate had fallen to 13 cents during all of which time the domestic rate remained at 35 or 36 cents. The first export rate on wheat via this route was 31 cents, put into effect early in 1896, and fluctuated to 12 cents on August 17, 1896, while the domestic rate was fixed at 37 cents. Similarly, in February of 1896, export rates were first quoted on rye, barley and flour, and by 1899 at the time

[7] *Ibid.*

of the commission's investigation, the rate on wheat, rye, barley, oats and corn was quoted at 10 cents proportional.

The Trunk Lines from Chicago to New York, as shown by the statistics, published no special export rates on grain until the month of October, 1896, when a rate of 15 cents on corn was quoted, as compared with a domestic rate of 20 cents. This rate was effective for short periods, until in February, 1899, it was increased to 16 cents, the corresponding domestic rate being 17½ cents. On the same date, a special export rate of 18½ cents on wheat was put into effect, the domestic rate being 20 cents. In April, 1899, the export rate on both corn and wheat was reduced to 12 cents, the domestic rate on both being 17 cents. Earlier in 1899, the export rate on corn from Chicago was 16 cents, but this was reduced to the lower figure by order of the Interstate Commerce Commission, April 12, 1899.[8] At the same time grain products, destined for export, were carried at the special rate of 17 cents.

The roads from the Mississippi River to New York published no special export rates on grain until October, 1896, seven months after the decision of the Supreme Court. On that date corn was quoted at 17 cents for export, domestic 23 cents; this was reduced to 15 cents in 1897, the domestic rate remaining at 23 cents; in 1898, the export rate was increased to 17½ cents, and in 1899 it fluctuated between 12 cents and 13½ cents, the domestic rate contemporaneously being 19½ cents and 20½ cents respectively. At the latter date, wheat was given a special export rate at the same figure as corn, while grain products took the rate of 23 cents.

On the Minneapolis–New York route special export rates were early adopted, but for short periods only. Thus, from December 23, 1889, to February 4, 1890, grain, grain products and corn for export, were carried for 30½ cents as compared with a domestic rate of 32½ cents. For six weeks in 1891, flour received a special rate of 35½ cents, and for three months in 1892, export rates on grain and corn were quoted at 29 cents.

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[8] In the Matter of Export Rates from Points East and West of the Mississippi River, 8 I. C. C 185. See p. 27.

From that time until 1899 no export rates existed, but early in that year flour, grain, grain products and corn were carried at a uniform rate of 25 cents, and a month later at 26 cents the domestic rate being maintained at 27½ cents. Finally, in April, 1899, a uniform rate of 23 cents was quoted on grain, grain products and corn, while the domestic rate was reduced to 24½ cents.

Up to the time of the commission's investigation no special export rates were quoted via Mobile or Pensacola, the practice being to charge the full domestic rate and grant a rebate when the goods were actually exported.

A scrutiny of the above figures will reveal the fact that either pending the decision of the Supreme Court in the Import Rate Case, or subsequent to such decision, the railroads serving the North Atlantic and Gulf ports put into effect many more special rates on exports than had previously existed, in spite of the fact that the commission had decreed such rates to be unlawful in the case of the New York Produce Exchange *vs.* New York Central & Hudson River Railroad Company.

These facts were revealed by the investigation of the commission, August 7, 1899, "In the Matter of Relative Rates Upon Export and Domestic Traffic in Grain and Grain Products and of the Publication of Tariffs Relating to Such Traffic," 8 I. C. C. 214. "The purpose of this proceeding was the investigation of export rates upon grain, and grain products, with a view to the making of whatever order might be found necessary in the premises."

In discussing the effect of export rates which are lower than domestic rates, the commission declared that the foreign consumer received all the benefit while the railroad was the chief loser by this practice. Commenting upon the competitive factors causing these two rates the commission was inclined to hold that domestic rates should be reduced, the same as rates on exports, except for two circumstances:

1. The fact that in some instances it is necessary for a railroad to quote lower rates upon shipments for export than upon domestic consignments. In support of this contention, the commission adopted the argument of the railroad that through

rates to foreign destinations must be substantially the same via all ports, citing as an example the recent Boston case, Kemble *vs.* Boston & Albany Railroad Company.

2. Water competition was accepted as the second reason why rates on exports should be lower than on domestic traffic. "The water carrier is not subject to the provisions of the Act to Regulate Commerce; it publishes no rates; it may change its rates from day to day or from hour to hour; it can carry certain commodities at a lower rate probably than can be profitably made by rail. We have, therefore, been inclined to hold that competition of this kind might be met by the rail carrier without in all cases a corresponding reduction at points not affected by such competition."

In deciding this case, both the Import Rate Case and the Kemble *vs.* Boston & Albany Railroad Company proceeding were cited, as tending to show that "the Act to Regulate Commerce does not, as a matter of law, prohibit a carrier by railroad from making a through rate from a point within the United States to a foreign destination of which its division shall be less than the amount charged by it for the corresponding transportation of domestic merchandise to the port of export. Nor is it, as a matter of law, in violation of the Act for such carrier to make a lower rate to the port of export upon traffic which is exported than upon that which is locally consumed, for the export rate is in essence the division of a through rate." Only unreasonable discriminations were declared to be in contravention to the act, and for the reasons above mentioned, the quoting of lower rates on merchandise for export than for domestic shipment was held not to be unreasonable or illegal.

Shortly before this investigation of the commission, complaint was made by the Board of Trade of the city of Chicago as to the relative rates on export corn from points east and west of the Mississippi River.[9] As shown by the foregoing statistics the rate on export corn from Chicago to New York was fixed at 16 cents in January and February of 1899. This

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[9] In the Matter of Export Rates from Points East and West of the Mississippi River, 8 I. C. C. 185. April 12, 1899.

rate was 1½ cents below the rate in 1898. During the latter year the Chicago rate of 17½ cents was applied as a proportional rate on export shipments from the Mississippi River, but early in 1899, this rate was reduced to 13½ cents as compared with the Chicago rate of 16 cents. This, it was contended, was an unreasonable discrimination against Chicago from which the rate had never been higher, and usually was lower, than the rates from the Mississippi River.

It developed during the hearing that this discrepancy was caused by a lowering of the export differentials on February 1, 1899. The previous arrangement gave New York a rate of 15 cents while Philadelphia with a 2-cent differential took 13 cents, and Baltimore 12 cents with a differential of 3 cents. On that date, the differentials were reduced one-half, giving Philadelphia and Baltimore rates which were 1 cent and 1½ cents, respectively, below the New York rate. This change was effected by retaining the old Baltimore rate of 12 cents from which was derived the new Philadelphia rate of 12½ cents, and the New York rate of 13½ cents. At the same time, the Chicago rate of 16 cents was retained. Several reasons for this reduction in rates were mentioned. It was asserted that the competition of the Gulf Lines necessitated a reduction in rates, in order to hold the export traffic. This contention, however, was not well substantiated. It was also testified that New York and Boston claimed that the old differentials were too great a difference against them and prevented them from obtaining their proper proportion of the business. The reduction in the differentials was, therefore, in the nature of an experiment and its continuance was contingent upon whether or not an quitable apportionment of the traffic could be effected.

The result of this rate change, it was shown, was to cause Illinois corn to remain in elevators, rather than to be exported, which formerly was the case; while Iowa corn, aided by these rates, was being freely exported. This condition, the commission held, was an undue discrimination against Illinois points, and insofar as any through or combination rates from Illinois exceeded any through or combination rates from Iowa, it was held to be in violation of section 3 of the act. Chicago

and Peoria were two Illinois points laboring under this difficulty and consequently were granted relief.

The effect of this decision was to cause the rate on corn from Chicago to be reduced from 16 cents to 12 cents.

III

Export Rates: The Situation of Export Rates After 1900

The U. S. Industrial Commission, in its report of 1901, investigated the matter of transportation rates. Professor Ripley testified[1] that in spite of the differential allowed to the Canadian Pacific, exports to China were being shipped through Seattle and San Francisco at rates less than the theoretical rates of the Canadian road.

This he attributed to the rate war in Massachusetts. The low export rates on cotton goods from New England to the Orient via Pacific ports, he testified, were absolutely necessary to enable New England mills to expand their market and to overcome the competition of water routes.

Evidence of discrimination against domestic shippers by means of special export rates was produced, but the railroads were able to adequately and legally defend the practice by quoting the decision of the Supreme Court in the Import Rate Case. Particularly was the disparity between export wheat and flour rates complained of, it being contended that a practical exclusion of American millers from foreign markets was effected.

"In the early part of 1904, the rate on wheat from Buffalo to the various Atlantic ports for export had fallen to 2 mills per bushel. This was owing to the existence of a rate war between the lines leading from Buffalo to Baltimore, Philadelphia, New York and Boston, growing out of a dispute between those lines as to the proper relative rates to those various ports. There was very little wheat at Buffalo which could move under these rates and the practical effect of the tariff during the winter and early spring was not serious, but as the opening of navigation approached it became evident that this condition, if it continued, would lead to a general demoralization of grain rates in all parts of the country which would, in turn, unsettle commercial and industrial conditions so far as they

[1] U. S. Industrial Commission Report, Vol. 9, p. 299.

related to the handling of grain, and especially to the manufacture and distribution of the products of grain. For this reason, business interests both upon the seaboard and at interior grain-handling and milling points were anxious that some adjustment should be reached, and to this end the commercial organizations of Boston, New York, Philadelphia and Baltimore applied by petition to this Commission, asking that it examine the whole subject of differential rates to and from these four cities and determine whether the present differentials should be abolished, or if retained, modified."[2]

The commission made a thorough investigation of the subject and heard every side of the question. It concluded that port differentials had been established for competitive reasons and as a means of equalizing the rates through the various ports. This has avowedly been the purpose of port differentials ever since the agreement of 1877. Both Philadelphia and Baltimore possessed advantages on the land, particularly in distance, while New York and Boston had greater ocean facilities. It was pointed out that from January 1, 1902, until May 26, 1902, equal rates prevailed from all the ports to Great Britain, under the provisions of the minimum freight agreement. Under this condition, through rates differed only by the amount of the differentials. For a few weeks subsequent to May 26th, the rates from Baltimore to Philadelphia were advanced by the amount of their respective differentials thus making equal through rates via all ports for this period. Rates were then readjusted so that through rates via Baltimore and Philadelphia were lower than through New York and Boston by about one-half the differential. When the through rates via Baltimore and Philadelphia were lower than through New York by the whole amount of the differential, traffic was diverted from New York and Boston, and when the through rate was the same via all the ports traffic was unduly diverted to New York. Thus, it was shown that "the most important factor in determining the route is undoubtedly the rate. . . . There are, however,

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[2] In the Matter of Differential Freight Rates to and from North Atlantic ports, 11 I. C. C. 13. Decided April 27, 1905.

other considerations. The item of insurance, quicker and more reliable service, more frequent sailings, the ability to reach a greater number of ports, superior banking facilities, and better storage facilities influence the movement of this traffic and in all these respects New York is superior to its competitors. The elements which enter into the problem are so various and so complex that it is manifestly impossible by any *a priori* process of reasoning to determine what inland differential will equalize all these advantages and disadvantages. This was the conclusion of Mr. Fink, of the Advisory Commission, and of this Commission upon the former investigation. It is the conclusion now. The best that can be done is to examine the effect of these differentials."

After examining the statistics of exports through all the ports from 1878, the commission concluded that there was no marked diversion of traffic from New York to warrant any interference to prevent it. It also advised the lowering of differentials on flour 2 cents per 100 pounds at Baltimore and 1 cent per 100 pounds at Philadelphia.

Commissioner Clements dissented from the opinion of the majority ostensibly upon principle. He claimed that such recommendations of the commission were in reality the fixing of differentials in export rates in order that competition between rival ports might be controlled. This, he contended, was contrary to the principle which Congress and the Supreme Court have consistently endeavored to uphold. "May competing carriers lawfully effect through the agency of the Commission restraint of competition and trade by a division of traffic between themselves and the ports when to do the same thing through an agency of their own would be unlawful? I think not."

During the years 1904–1905, the Committee on Interstate Commerce of the United States Senate conducted hearings relative to the Regulation of Railway Rates. It was stated by Mr. E. P. Bacon, of Milwaukee, that the actual effect of the reduction of the export differentials on iron and steel in 1904, by one-half the previous amounts, was to enable exporters

to ship these products at rates which were one-third less than the domestic tariffs on the same commodities.[3]

Mr. James J. Hill, President of the Great Northern Railway, testified that the requirement of publishing rates and giving notice of change therein had caused his road to lose the flour traffic to the Orient. This was because his foreign competitors, who were not bound by such provisions, could easily underbid any rate he published knowing that he must give ten days' notice of increase, and three days' notice of reduction. By the time this requirement would have been complied with the rival roads would have secured all the business by offering a more attractive rate.

Pointing out the difficulties encountered by the Great Northern Railway in building up an export trade, Mr. Hill cited, as an example, the case of cotton. In order to induce the Japanese to accept cotton he had to guarantee that if they took two or three carloads he would stand any loss which might occur from mixing the different staples of American and Indian cotton. Similar methods were employed in building up an export business in iron and steel.

In the proceeding before the Interstate Commerce Commission mentioned above,[4] that body in commenting upon the export traffic of the Gulf ports, stated as follows:

"The total amount exported through these ports (on the Atlantic) must decrease as compared with the total exports of the whole country. A glance at the map of the United States will show that the points at which these exports originate are much nearer the Gulf than the Atlantic ports. In the early days of this business the South was prostrate from the effects of the Civil War. It had no railroads worth the name. Today many lines of railway connect the grain fields and packing houses of the West with Galveston and New Orleans and the gradients, and cost of operation upon those lines are such that traffic can be transported almost as cheaply per mile as to the Atlantic

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[3] Hearings before the Committee on Interstate Commerce, U. S. Senate, Senate Document 244, 59th Congress, 1st Session, Vol. 1, p. 19.

[4] In the Matter of Differential Rates, etc., *supra.*, p. 31.

seaboard. These railroads are bound to carry a large part of this traffic to the Gulf."

In support of this stand a table was produced in evidence, showing that exports of wheat, corn and oats through New Orleans had increased from 4.1 per cent of the total exports from the United States in 1878, to 11.7 per cent in 1904. At various times, this proportion was as high as 14 per cent. Similarly, it was shown that corresponding figures for Galveston showed an increase from practically nothing up until 1891 to over 10 per cent in 1904.

The rates in force on August 21, 1905, on wheat and corn to these Gulf ports, as compared with those to the North Atlantic ports, are shown in the following tables[5]:

RATES IN FORCE AUGUST 21, 1905, ON WHEAT AND CORN, DOMESTIC AND EXPORT, FROM THE FOLLOWING POINTS TO ATLANTIC AND GULF PORTS

FROM	TO NEW ORLEANS, LA.				TO GALVESTON, TEX.			
	WHEAT		CORN		WHEAT		CORN	
	Expt.	Dom.	Expt.	Dom.	Expt.	Dom.	Expt.	Dom.
Omaha, Neb.	22½	25	21½	23	22½	42	21½	35½
Proportional	a17½	a20	16½	18	....	....	....	....
Distance		(1080	miles)			(1005	miles)	
Kansas City, Mo.	21½	24	19½	21	....	36	....	30½
Proportional	16½	19	15½	17	16½	..	15½	....
Distance		(880	miles)			(805	miles)	
Hastings, Neb.	33½	36	30½	32	33½	48	30½	41½
Distance		(1168	miles)			(1093	miles)	
Wichita, Kans.	27	32½	25½	29	27	38	25½	32½
Distance		(958	miles)		(703	miles)		

A comparison between the distances shown for the various routes will serve to illustrate the disadvantages in mileage alone under which the North Atlantic ports compete with the Gulf

[5] Digest of Hearings, Committee on Interstate Commerce, U. S. Senate, Senate Document 244, 59th Congress, 1st Session, 1905. Appendix II.

ports for this trans-Mississippi grain traffic. Obviously, the Gulf routes can afford to carry products more cheaply than can the roads to the eastern seaboard.

	To New York, N. Y. Based on E. St. Louis, Ill.				To Baltimore, Md. Based on E. St. Louis, Ill.			
	WHEAT		CORN		WHEAT		CORN	
FROM	Expt.	Dom.	Expt.	Dom.	Expt.	Dom.	Expt.	Dom.
Omaha, Neb.....	27	32	26	31	25½	27	24½	26
Proportional...	22	27	21	26	19½	22	19½	21
Distance.....		(1405	miles)			(1295	miles)	
Kansas City, Mo..	26	29	24½	27½	24½	26	23	24½
Proportional...	22	25	21	24	20½	22	19½	21
Distance.....		(1342	miles)			(1211	miles)	
Hastings, Neb....	38	41	35	38	36½	38	33½	35
Distance.....		(1557	miles)			(1447	miles)	
Wichita, Kans....	37	40	33	36	35½	37	31½	33
Distance.....		(1549	miles)			(1418	miles)	

(a) To West Wego, La.

Appendix II.—Digest of Hearings, Committee on Interstate Commerce, U. S. Senate, Senate Document 244, 59th Congress, 1st Session, 1905.

In 1906, the Hepburn Amendment was enacted, and among other things provided for the publication of all rates and required thirty days' notice of increase and ten days' notice of reduction in all published rates. Moreover, the commission was given mandatory rate-making powers, so that this rule could not be deviated from without its consent. Previous to this time, carriers were required by law to give notice of change in rates, but as the commission could not enforce this provision, it was effective only at the will of the roads.

The effect of the Hepburn Amendment was felt particularly on the Pacific Coast. The transcontinental railroads were in the habit of quoting through rates from the eastern and central parts of the United States to points in the Orient. This practice

was facilitated greatly by the fact that many of these roads owned their own steamship lines. Now, however, the inland proportion of through rates must be published, and under the amendment, thirty days' and ten days' notice of increase or reduction respectively, must be given.

As stated in Johnson & Huebner's Railroad Traffic and Rates[6]:

> Before 1908 it was the practice of some of the transcontinental railways, some of which have their own trans-Pacific steamship lines, to quote such through rates from the eastern or central part of the United States to the Orient and Australasia as might be required to meet the competition of "carriers serving Atlantic ports and transporting Asiatic traffic via the Suez Canal route." The through rates might thus change frequently, and the railway took its share of the variable charge. To publish and file the rates would prevent this. Ordinarily, rates can legally be raised only upon thirty days' notice and lowered upon ten days' notice of change; and although the Interstate Commerce Commission ruled that the American railways to the Pacific might raise their rates upon ten days' notice and reduce them upon three days' announcement, the companies decided not to attempt to compete for the export traffic even under those conditions. Thus, for the present at least, "shipments destined to and consigned through to points in Asia, Philippine Islands, Australasia, New Zealand, Fiji Islands, or beyond," are charged the regular domestic rail rates to San Francisco by the southern lines and those to Seattle by the northern lines, and, of course, the current ocean rates across the Pacific. There is, however, one important exception to this general rule in the case of cotton and cotton linters, which have a proportional commodity rate of 95 cents from Montgomery and Selma, Ala., to San Francisco and from Montgomery, Selma, Northport and Tuscaloosa, Ala., to Tacoma and Seattle on shipments to Asiatic ports, the Philippines and Australasia.
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> On traffic consigned through "to Alaska and points on or tributary to the Yukon River" the domestic rates to Seattle, the chief center of our trade with Alaska, also apply to Vancouver and to New Westminster, B. C.; likewise, the rates to San Francisco are the same as those to Seattle. Similarly, "on traffic destined to, and consigned through to the Hawaiian Islands" the rates thereon to East San Pedro, Cal., are those—the domestic rates—applying to Seattle; while on shipments through East San Pedro to Mexico, Central America and South America the rates to East San Pedro are the same

[6] "Railroad Traffic and Rates," Johnson & Huebner, Vol. 1, pp. 520–521.

as those to San Francisco. In this wise are the rates standardized by competing routes to Alaska, to the Hawaiian Islands, and to the west coast of Mexico and Central and South America.

The situation of export rates in 1910, was as follows:

On the Pacific Coast, there were only two joint proportional tariffs in effect, both of which applied on traffic passing through Vancouver. American roads were parties to these tariffs only insofar as they formed connections with the Canadian carriers running to this port. Special export rates were quoted on a long list of commodities, and in addition, on many articles in the classification. Both the proportional rail rate to the seaboard and the through rate to the foreign destination were specified.

As stated above, the American roads quoted no export rates, except on cotton and cotton linters.

To the North Atlantic ports the only export class rates in effect were those created by the differentials. On exports, Boston still applied the New York rates and Portland received the same class rates on shipments via the Canadian Pacific and Grand Trunk. To Halifax the New York rates plus 1 cent per 100 pounds were charged, and to Montreal, 2 cents below the domestic rates, which were the same as the New York rates.

Export rates were quoted on a few limited commodities and the port situation was settled by applying the New York rates to shipments to Boston, Quebec and to Portland, under certain restrictions. Halifax and St. John received the New York rate plus 1 cent, while Montreal applied the Philadelphia domestic rate on exports.

The transcontinental roads also had in effect proportional rates on many commodities shipped via Atlantic or Gulf ports.

The Gulf ports had many more export rates in effect than either the Atlantic or Pacific ports. Several class and commodity tariffs were published, which applied only to shipments from particular points of origin to specified destinations. Packing-house products were shipped on a special tariff of their own. On shipments to the Americas alone, 125 articles were listed on which special export rates applied.

The validity and reasonableness of export and import differentials via North Atlantic ports was again attacked in 1912, by the Chamber of Commerce of the state of New York.[7] All the port and railroad interests were represented at the proceeding, each arguing for its respective locality. The complaint alleged violation of the first four sections of the Act, and that by giving preference to the ports of other states, and by allowing lower rates to other ports, offsetting New York's natural advantages, the Constitution of the United States had been violated.

Statistics produced in evidence showed that while the percentages of exports of wheat, corn and oats from the several ports fluctuated widely from year to year, the differences between 1899 and 1911 were slight. During that time, each of the ports lost a small percentage, with the exception of Boston, which increased 1 per cent.

Thus, it was shown that traffic had not been diverted from New York, and this was conclusive proof that the rates were not discriminatory against that port.

In answer to Boston's plea for rates on the Baltimore basis, the commission stated that the Boston lines could charge such rates as their interests should demand, provided that they were reasonable and not discriminatory.

The Baltimore & Ohio, and the Pennsylvania systems, having Baltimore and Philadelphia respectively, as their principal ports, had the right to control the rate situation to these cities, and it was held, "have a lawful right to maintain lower rates between this differential territory and Baltimore and Philadelphia than they contemporaneously maintain to and from New York. The New York lines, and their connections, had a right to meet the competition so created at Philadelphia and Baltimore and which is beyond their control, while at the same time maintaining higher rates to and from New York." Although this adjustment might not be just and reasonable for all time, the commission stated that it could not "find that

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[7] Chamber of Commerce of the State of New York, *et al. vs.* New York Central & Hudson River R. R. Co., *et al.*, 24 I. C. C. 55. Decided June 4, 1912.

easonable differences in rates as between Philadelphia and Baltimore, on the one hand, and New York on the other hand, unjustly discriminate against New York. We find no justification for lower rates to and from Boston than to and from New York."

In conclusion, the opinion was expressed that differentials to Philadelphia should not exceed 2 cents, and to Baltimore, 3 cents per 100 pounds under the New York rates. As to grain, the differentials on this traffic should be no greater than one-half the ordinary differentials.

As to all this traffic, "the export rates to Boston should not be lower than to New York."

The case was held open for entering any order which might later be found necessary.

On October 14, 1912, the commission issued a supplemental report on this proceeding in order to make clear certain of the previous findings which had been misconstrued.[8] It had not been the intention of the commission to change the differentials on flour, and it now ruled that rates on flour exports from Baltimore should not exceed 2 cents, and from Philadelphia 1 cent per 100 pounds below the New York rates. The export differentials below New York on iron articles were also to remain as they had been, viz.:

"From Chicago (and Chicago rate points) to Baltimore, 3 cents per 100 pounds—and 60 cents per ton, net or gross, where rates are stated per ton; to Philadelphia, 2 cents per 100 pounds—40 cents per ton, net or gross, where rates are stated per ton. From Detroit and points taking the same rates, to Baltimore, 3 cents per 100 pounds—and 55 cents per ton, net or gross, where rates are stated per ton; to Philadelphia, 2 cents per 100 pounds—and 40 cents per ton, net or gross, where rates are stated per ton. From Pittsburgh, Cleveland and Youngstown, to Baltimore, 1.5 cents per 100 pounds—and 30 cents per ton, net or gross, where rates are stated per ton; to Philadelphia, 1 cent per 100 pounds—and 20 cents per ton, net or

[8] Chamber of Commerce of the State of New York, *et al. vs.* New York Central & Hudson River R. R. Co., *et al.*, 24 I. C. C. 674.

gross, where rates are stated per ton. These differentials should not be exceeded."

In 1916, due to the fluctuation in ocean rates, scarcity of tonnage, etc., the transcontinental lines cancelled all through rates to foreign ports. Until July 1st of that year, through rates were quoted to Oriental and Australian destinations, the rail portion being a fixed amount, as required by the Hepburn Amendment, and the ocean rate being published for "information only." Obviously, under war conditions, any ocean charge which was published, could not give any information. The through export tariffs published by the Chicago, Milwaukee & St. Paul Railroad, moreover, were contingent upon the actual engagement of cargo space by the railroad agent.

On July 1, 1916, an export tariff was published by the transcontinental railroads, applying on shipments from specified American points to particular Pacific ports when the ultimate destinations were the Orient or Australia. Only the rail rate was quoted in this tariff. On some articles, rates were quoted when destined for points in Central and South America, Mexico and Hawaii. In addition to export rates on classified articles and commodities, an "all commodities" rate was quoted in this tariff, to be applied to shipments in straight or mixed carloads of 30,000 pounds, certain specified commodities being excepted. The rate was fixed at $1.25 per 100 pounds when destined for export to the Orient, and $1.50 for exports to Australia.

On the Gulf, export rates were still quoted on numerous commodities and classified articles, there being seven export tariffs effective at this time. As in 1910, these tariffs named the points of origin and the foreign points to which the goods are destined, in order that export rates might apply.

The rates in force in 1916 were changed in 1918 in consequence of a general order (No. 28) issued by the Director General of Railroads.[9]

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[9] See Chapter VI.

IV

Import Rates: The Development and Legal Status of Import Rates

Growth and Development.—The origin and development of special import rates is more difficult to trace than that of export rates, inasmuch as the only early data available were published by the Trunk Lines, and they were far more engrossed in the export difficulties than in imports. The movement of the bulky raw materials from out of the United States through the various rival ports occupied about all the attention that was paid to foreign business in this section of the country.

As stated by Professor Ripley before the United States Industrial Commission in 1901, "The distinction between import and export rates is clear. The import rate concerns the producer in this country; the export rates bear a little differently, because it concerns the railroad; that is to say, the railroad cannot live on the few cents per bushel or per hundred weight on all its traffic with which it must be contented on its export traffic alone. The road could not live if it got no more than that on its traffic."[1]

Sugar was one of the first commodities on which the Trunk Lines quoted special import rates, the rate from New York to Chicago being reduced to 25 cents per 100 pounds on May 16, 1881.

From the testimony produced in the first import case brought before the Interstate Commerce Commission,[2] it appears that the practice of accepting, as the inland proportion of a through rate from foreign countries, a less sum than was charged on local business, was generally begun about 1883. The evidence of the Grand Trunk Railway of Canada, in this case, purports to show that special rates on imports were granted by it in 1857 and continued in force until the passage of the act to regulate commerce, in 1887. The Pennsylvania Railroad Company,

[1] U. S. Industrial Commission Report, Vol. 9, p. 301, 1901.

[2] New York Board of Trade and Transportation, *et al. vs.* P. R. R. Co., *et al.*, 4 I. C. C. 447, 1891.

it was shown, had through rates on imports in 1884, and received as the inland proportion less than was regularly charged on domestic traffic.

The usual practice was to have agents abroad to permit the steamship lines to quote through rates from a foreign country to an interior destination in the United States, with a prearranged method of dividing the total rate. For example, the Baltimore & Ohio Railroad Company received heavy, bulky goods from Europe, on through rates which were divided 60 per cent to the railroad and 40 per cent to the steamship with a fixed arbitrary of 15 cents per 100 pounds from Baltimore to Chicago. At the time a 15 cent rate was accepted on imports, the corresponding domestic inland rate was 22 cents. Through the Gulf ports, special import rates seem to have been early adopted, just as in the case of exports. As rates were usually fixed by the steamship lines, the proportion received by the railroad was constantly varying according to the competitive conditions abroad and via other routes.

The early method of conducting the import business of the Pacific ports was well described by Mr. J. C. Stubbs, third Vice-President of the Southern Pacific Railway Company, before the United States Industrial Commission in 1901.[3] He states that, "so far as San Francisco is concerned, it never distributed Asiatic goods to the territory east of the Rocky Mountains; could not do it because it had no railway facilities; no means except wagons until 1870, you might say. The business was done via Suez, or the Isthmus of Panama, or from New York. The Atlantic houses distributed it back and trade was centered there. When the overland roads, or the Pacific roads were opened and they wished to participate in this business, they found it lodged in the hands of the New York merchants. They had to get the business from these New York people, and they had to make rates that would compete with the rates via Suez and around the Cape of Good Hope and via Panama; and in doing that they, of course, made through rates, which were lower than the local rates and lower than the rates of steamers

[3] U. S. Industrial Commission Report, 1901, Vol. 9, p. 761. Testimony of J. C. Stubbs.

which delivered at San Francisco from the Orient. But the railroads had no voice in the rates from Asiatic ports to San Francisco proper. Through the multiplication of steamship lines on the Pacific, and of the transcontinental railroad lines, and their fighting for this Oriental business as between themselves and against the Suez and Good Hope routes, rates have been at times lower from Oriental ports to Chicago and New York than to San Francisco."

In this inter-railway competition of the transcontinental lines, rate wars frequently occurred in which the steamship lines were usually involved. These wars also ensued over the export business. According to the testimony of Mr. William R. Wheeler, of the Pacific Coast Jobbers' Association, before the United States Industrial Commission,[4] ". . . it was the Canadian Pacific's attitude that was the alleged cause at one time of rate cutting. The Canadian Pacific claimed that it was what the railroads call a differential road, that it has physical difficulties to overcome; that the road was longer, and that there was a transfer from road to sea to get the goods from San Francisco, and that the merchant from San Francisco would not ship by that line unless there was some advantage in it."

After a long fight between the roads, the Canadian Pacific was granted a fixed differential in rates, but there was continual complaint that on rates to points east of the Missouri River and Chicago, the American roads were cutting and thus the differential was ineffective. The established inland tariffs, however, had no reference to import rates as the railroads accepted a proportion of whatever rate may have been made by the steamships. Even in 1903, when the Interstate Commerce Commission made a report on import rates to the Senate,[5] there were no import rates filed with that body.

The Legal Status of Import Rates.—This system of import rates was apparently a discrimination by the roads against the local shipper, and it became the ground for loud complaints.

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[4] *Ibid.*, p. 748.

[5] In the Matter of Rates on Import and Domestic Traffic, 9 I. C. C. 650, 1903.

Accordingly, the Interstate Commerce Commission, on March 23, 1889, proceeding on its own initiative, issued Circular 658,[6] which among other things, provided as follows:

> Imported traffic transported to any place in the United States from a port of entry or place of reception, whether in this country or in an adjacent foreign country, is required to be taken on the inland tariff covering other freights.

This notice was a drastic step against the prevailing practice of quoting import rates and eleven roads refused to obey the order. Soon after this, the New York Board of Trade and Transportation brought suit against the Pennsylvania Railroad Company, for discriminating against the merchants of New York City by charging less for import traffic than for similar domestic traffic, and for failure to obey the order of the commission. The case which ensued involved also the Philadelphia Commercial Exchange and the San Francisco Chamber of Commerce, as additional complainants and a large number of railroads as respondents. The proceeding, as may be seen, involved the import traffic of the United States and threw much light upon the actual practices then and previously in effect. It is known as "The Import Rate Case." New York Board of Trade and Transportation, *et al. vs.* Pennsylvania Railroad Company, *et al.*, 4 I. C. C. 447. Decided January 29, 1891.

The Import Rate Case.—This case was a complaint that the defendant railroads had been in the habit of charging the regular tariffs for merchandise delivered to them at New York and Philadelphia to be transported inland to western cities, while on traffic received from steamship lines on through bills of lading from foreign countries the rate was as much as 50 per cent lower than the established inland tariff. Such discrepancy was contended to be an unjust discrimination and in violation of the act to regulate commerce and of the commission's order of March 23, 1889. It was shown, for example, on June

[6] I. C. C. Circular 658, 2 I. C. C. 658, 1889.

25, 1888, that on a shipment of linens from Scotland to Chicago, through Philadelphia, the rail carrier accepted 31.9 cents as its proportion of the through rate, in comparison with an established domestic rate of 69 cents. Similarly, on a shipment of tin plate, June 17, 1889, from Liverpool to Chicago via Philadelphia, the railroad charged 16 cents for the inland carriage, while for shipments originating at Philadelphia the rate was 28 cents.

The roads which admitted this practice, claimed that it was not illegal, as the circumstances under which this traffic was carried were substantially dissimilar from those applicable in the domestic business; also that various competitive conditions such as steamship and railway rivalry required the granting of special rates on imported traffic.

The principal articles on which special import rates were granted by the railroads were, via Gulf ports, iron, cement, tin plate, soda ash, wines and liquors, dry goods and linens, earthenware and crockery, and numerous less important articles. These commodities were usually carried on a through rate, the railroads dividing with the steamship according to a fixed percentage.

Imports via Pacific ports consisted almost entirely of tea from China and Japan. The rates were made by the agents of connecting lines and the railroad received 50 per cent of whatever the through rate may have been, subject to a minimum of 1 cent per pound. For corresponding inland shipments of tea originating at the Pacific Coast and not passing through on a through bill of lading, the rate was $1.55 per 100 pounds, carload, or $3.00 per 100 pounds, less than carload, showing the established domestic inland rates to be respectively, 1.55 and 3 cents per pound.

Similarly the Canadian Pacific Railroad had through arrangements with steamers and accepted a stipulated proportion of the through rate, which was especially low on tea. After the order of March 23, 1889, was promulgated, it created a "special class" composed of imports, at the low rate of 13 cents as compared with the established class rate of from 22 to 31 cents.

In spite of the requirements of the act as to publication,

maintenance and filing of joint tariffs with the commission, only the Southern Pacific and the Louisville, New Orleans & Texas Railway had complied with such provision. The remainder of the roads contended that it was impracticable and impossible to publish or maintain joint tariffs, because of the competitive factors, principally of ocean carriers, involved.

In its opinion, the commission stated[7] that,

> These circumstances and conditions (of unrestrained ocean competition) are indeed widely different in many respects from the circumstances and conditions surrounding the carriage of domestic interstate traffic between the states of the American Union by rail carriers; but as the regulation provided for by the Act to Regulate Commerce does not undertake to regulate or govern them, they cannot be held to constitute reasons in themselves why imported freight brought to a port of entry of the United States or a port of entry of an adjacent foreign country destined to a place within the United States, should be carried at a lower rate than domestic traffic from such ports of entry respectively, to the places of destination in the United States over the same line and in the same direction. To hold otherwise would be for the Commission to create exceptions to the operation of the Statute not found in the Statute; and no other power but Congress can create such exceptions in the exercise of legislative authority.
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> In the one case the freight is transported from a point of origin in the United States to a destination within the United States, or port of transshipment, if it be intended for export, upon open published rates, which must be reasonable and just, not unjustly preferential to one kind of traffic over another, and relatively fair and just as between localities and the circumstances and conditions surrounding and involved in the transportation of the freight are in a very high degree material. In the other case the freight originates in a foreign country, its carriage is commenced from a foreign port, it is carried upon rates that are not open and published, but are secret, and in making these rates it is wholly immaterial to the parties making them, whether they are reasonable and just or not, so they take the freight and beat a rival, and it is equally immaterial to them whether they unjustly discriminate against surrounding or rival localities in such foreign country or not. Imported foreign merchandise has all the benefit and advantage of rates thus made in the foreign ports; it also has all the benefit and advantage of the low rates made in the ocean carriage arising from the peculiar circumstances and conditions under which that is done; but when it reaches a port of entry of

[7] New York Board of Trade and Transportation *vs.* Pennsylvania R. R. Co., 4 I. C. C. 447

the United States, or a port of entry of a foreign country adjacent to the United States, in either event upon a through bill of lading, destined to a place in the United States, then its carriage from such port of entry to its place of destination in the United States under the operation of the Act to Regulate Commerce must be under the inland tariff from such port of entry to such place of destination covering other like kind of traffic in the elements of bulk, weight, value and of carriage; and no unjust preference must be given to it in carriage or facilities of carriage over other freight.

The Act to Regulate Commerce will be examined in vain to find any intimation that there shall be any difference made in the tolls, rates, or charges for, or any difference in the treatment of home and foreign merchandise in respect to the same or similar service rendered in the transportation when this transportation is done under the operation of this statute.

It was, therefore, ordered by the commission that the respondents "forthwith cease and desist from carrying any article of imported traffic shipped from any foreign port through any port of entry of the United States or any port of entry in a foreign country adjacent to the United States upon through bills of lading destined to any place within the United States, at any other than upon the inland tariff covering other freight from such port of entry to such place of destination, or at any other than the same rates established in such inland tariff, for the carriage of other like kind of traffic in the elements of bulk, weight, value and expense of carriage."[8]

The Texas & Pacific Railway Company was one of the few railroads which still refused to recognize the validity of any order of the commission which would compel the charging of identical rates for domestic and import traffic. This road was engaged in the import trade via New Orleans, and by means of its connection, the Southern Pacific Railway Company conducted a through business to San Francisco. During the proceeding, this company declared that both before and since the order of March 23, 1889, it had charged less on import than on similar domestic traffic, and in support of this contention, enumerated eight water, or water and rail, routes with which it was in competition for this business.

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[8] *Ibid.*

A bill of complaint was brought by the commission in the U. S. Circuit Court for the Southern District of New York against the Texas & Pacific Railway Company, to compel obedience to the order. On October 15, 1892, an injunction was issued against the railroad, and upon appeal by the company was upheld by the U. S. Circuit Court of Appeals for the Second District. The proceeding was then carried to the United States Supreme Court, which reversed the decisions of the lower courts and declared the order of the commission to be illegal. (Import Rate Case, Texas & Pacific Railway Company *vs.* Interstate Commerce Commission, 162 U. S. 197, 40 L. Ed. 450, and decided March 30, 1896.)

In its decision, the Supreme Court directed the commission to take cognizance of the interests not only of the general public, but also the railroad company. "The defendant company admitted that, as a scheme or mode of obtaining foreign traffic, it had agencies by which, and by the use of through bills of lading, it secured shipment of merchandise from Liverpool and London, and other European ports, to San Francisco and to the other inland points named. It alleged that in order to get this traffic it was necessary to give through rates . . . and that in fixing said rates it was controlled by an ocean competition by sailing and steam vessels by way of the Isthmus and around the Horn, and also, to some extent, by a competition through the Canada route to the Pacific Coast."

Because of these competitive factors, the railroad had to accept less on through traffic than for local shipments. No complaint or injury was shown to have been caused to any person in New Orleans or on the Pacific Coast and the local rates were not held to be unreasonable. The commission justified its action wholly upon the construction put by it on the act to regulate commerce, as forbidding the commission to consider the "circumstances and conditions" attendant upon the foreign traffic as such "circumstances and conditions" as they are directed in the act to consider. The commission thought it was constrained by the act to regard foreign and domestic traffic as like kinds of traffic under substantially similar circumstances and conditions, and that the action of the de-

fendant company in procuring through traffic that would, except for the through rates, not reach the port of New Orleans, and in taking its pro rata share of such rates, was an act of "unjust discrimination," within the meaning of the act. "In so construing the Act we think the Commission erred."

The wording of the statute, it was held, implies "that strict uniformity is not to be enforced, but that all circumstances and conditions which reasonable use would regard as affecting the welfare of the carrying companies, and of the producers, shippers and consumers, should be considered by a tribunal appointed to carry into effect and enforce the provisions of the Act."

Evidence had been produced before the commission by the Illinois Central Railroad Company, and the Pennsylvania Railroad Company to show that conformity with the order of March 23, 1889, had caused a serious reduction in their foreign business. The court declared that the Act was never intended to deprive a railroad of remunerative business and that the commission should have considered such facts in promulgating its order of January, 1891.

The Chief Justice and two Associate Justices dissented from this opinion, holding that such an interpretation of the act is an unjust discrimination and "enables the great railroad corporations of this country to place American travelers, in their own country, as well as American interests of incalculable value, at the mercy of foreign capital and foreign combinations —a result never contemplated by the legislative branch of the government."

Following this decision, railroads were enabled to quote through rates and accept proportions which are less than the established domestic rates, the only duty of the Interstate Commerce Commission being to prevent any unjust or unreasonable discriminations. This could be ascertained either by investigation or a comparison of the import and domestic rates on file with the commission.

V

Import Rates: The Situation of Import Rates After 1900

As competitive factors became more severe, however, the established import rate and the actual rates charged were not, at all times, the same. So great was the demoralization and cutting of established rates about this time, that in 1901, an Import Rate Committee was formed by the lines leading from Montreal, St. John, Boston, New York, Philadelphia, Baltimore and Newport News. This committee succeeded in steadying the rates by making commodity rates on crockery, caustic soda, soda ash, nitrates and articles of iron ore, so low as to induce the ocean carriers to join in making an ocean minimum, the combination to be the through rates. This was arranged by a conference with the steamship lines in November, 1901. It appears, however, that this committee had great difficulty in uniting all interests. Boston and Montreal had little interest in this arrangement, as their local business gave higher rates than those here contemplated, and New York flatly refused to remain in the agreement.

The United States Industrial Commission, in its hearings of 1901–1902, secured evidence as to the method and effect of making special import rates, which are lower than domestic rates. The Merchants' Association of New York complained that by reason of this practice of the railroads, Chicago merchants could import and sell their goods in direct competition with New York dealers, within 50 miles of that city. This was possible because of the low through rate from Europe to St. Paul.[1]

J. C. Stubbs, third Vice-President of the Southern Pacific Railway Company, referring to the practice on the Pacific Coast, said that there was no system of import rates in force. "It is a go as you please. The steamships on the Asiatic side take freight for whatever they can get, and the railroads accept

[1] U. S. Industrial Commission Report, Vol. 9, p. 871.

their proportion of the rate on an agreed division, whatever that may be. There is no published tariff. There are no agreements that are at all workable or enforceable. . . ."[2]

On February 28, 1903, in compliance with a resolution of the Senate dated June 24, 1902, the Interstate Commerce Commission submitted a report upon rates in force upon domestic and import traffic of a like kind, showing both the rates on file with the commission and the rates actually charged. On articles showing a disparity between import and domestic rates, the customs duties charged on such import traffic were to be included in the report.[3]

The relations between the North Atlantic ports on import traffic, it was shown, were adjusted by the system of differentials. Whereas the domestic class rates from Boston by the standard lines were the same as those from New York, on import traffic a differential of 5, 4, 3, 2, 2 and 1½ cents on Classes 1 to 6, respectively, below New York rates was allowed. From Portland to Chicago, the Grand Trunk applied double these differentials on import class traffic.

Philadelphia and Baltimore received the usual domestic differential below New York rates on import traffic, there being no special allowance in this case. The import class rates from Newport News to Chicago were naturally higher than the domestic class rates from November 15th to May 15th, and for the balance of the year, in which there is open navigation, the import rates were nearly the same as the domestic class rates.

In addition to these class rates, there were numerous commodities on which a special import rate was filed. At Boston, Portland and Montreal, the import commodity rates charged were the same as the New York rates, while Philadelphia and Baltimore rates were the regular differential of 2 and 3 cents, respectively, below the New York rate on all classes lower than second. Newport News commodity rates were the same as the Baltimore rates.

The commission reported that there were no import rates,

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[2] *Ibid.*, p. 761.

[3] In the Matter of Rates Upon Import and Domestic Traffic, 9 I. C. C. 650, 1903.

either class or commodity, via the Pacific Coast. New Orleans received some commodity import rates and through Mobile special rates were charged only by contract on particular shipments. In such cases, the inland proportion was filed with the commission, but in making the import rate, no reference whatever was made to the established domestic rate.

As to the manner of making import rates, the commission stated that "through rates are made either by . . . agents" (who may be an employee of the company, receiving a fixed salary, or more often, is a person engaged in other business, working on commission), "by the inland carriers here, or by the ocean carriers. If by the former, they may represent in each instance the result of combining the ocean with the inland rate, or they may be either more or less than such combination. The agent apparently makes any rate he sees fit, and may use his commission for the purpose of offering a lower rate than the combination, but it is said that he must in all cases protect personally the rate named by him, so far, at least, as the inland carrier is concerned." This commission "is said to be 10 per cent of the inland rate on articles paying first, second, or third class rates, and 5 per cent on articles paying fourth, fifth and sixth class rates. It is claimed that no commission is paid on articles carried at commodity rates, but as the solicitor is usually a customs broker or insurance agent the customs fee or insurance premiums he may obtain induce him to solicit the traffic.

"The ocean carrier is also at liberty to make any through rates it pleases, though according to the testimony the inland carrier must be paid its established and published proportion in cases where the inland proportion has been established and published. Ocean rates are constantly fluctuating, and for this reason whenever the inland carrier wishes to name a through rate it must make some definite arrangement with the ocean carrier. But the way much of this import business is done leaves the carriers free to make such through rates from time to time as they think will be to their advantage without reference to how their action may affect dealers in domestic articles of like kinds and classes. Even where through rates are named

in bills of lading the rate specified may not correspond with the fact. It was explained that items are often included in the rate named that are not, strictly speaking, a part of the transportation charges, and where the amount of the rate is not mentioned, it is said that the information is withheld to prevent one agent from finding out what rates are being made by another.

"As the business is carried on at present the inland carriers are free to make low rates on imported articles without the necessity of making corresponding rates on domestic articles of like kinds and classes; . . ."

It was stated by the railroads that any law requiring them to charge the same rates on import as on domestic traffic, would cause them to lose the import traffic entirely, and Mr. Lucius Tuttle, President of the Boston & Maine Railroad, stated in reference to the effect of such a law upon the port of Boston, that "Boston would ultimately have little use for its export wharves, and might finally turn them into vegetable gardens."

In 1904–1905, the Committee on Interstate Commerce, of the United States Senate (Elkins Committee), conducted hearings on the "Regulation of Railway Rates."[4] It was shown at the proceeding, that comparatively little business was carried by the railroads at reduced import rates. The New York Central Railroad published a list of eighty-eight (88) commodities on which special rates were granted "when the shipments are delivered direct from the ship's side or appraiser's warehouse to the railroad cars within ten days after the arrival of the vessel."[5] In the first eight months of 1905, the New York Central Railroad carried but 2.9 per cent of its aggregate tonnage from New York at these reduced rates. The Pennsylvania Railroad Company, quoted special import rates on sixty-nine commodities from New York and for the first half of 1905, 13.1 per cent of its total tonnage from New York, Philadelphia and Baltimore consisting of import traffic carried at special rates.[6]

The advantages accruing to an intended importer in the United States because of the system of import rates were illus-

[4] U. S. Senate Document 244, 59th Congress, 1st Session, Washington, 1906.
[5] *Ibid.* Digest of Hearings, p. 620.
[6] *Ibid.*, p. 626.

trated by J. W. Cooper, manufacturer of food products at St. Paul, Minn. He testified before the committee, as follows:

"If you restrict the present method of making import rates you will centralize the import business on the eastern borders of our Continent very largely. The present method decentralizes that business, and we are able to buy the products of Japan and sell them. We import also from Spain, some from England, some from Italy, and some from France, on rates to St. Paul that are substantially less than the ocean rate to New York plus the rate made from New York to St. Paul, so that we are able to distribute those products against New York directly, on a fair competitive basis."[7] This is precisely the situation of which complaint was made by the Merchants' Association of New York before the United States Industrial Commission in 1901. This tends to show that while special import rates are detrimental to the business dealers at one location—the seaboard—they are of great benefit to importers far removed from the ports.

Pittsburgh Plate Glass Case.—Early in 1905, the Pittsburgh Plate Glass Co., of Pittsburgh, Pa., filed a petition with the Interstate Commerce Commission stating that, "While the official classification third-class rate applies on domestic shipments, shipments from foreign producing points via ocean steamship lines to ports of entry and thence by rail to ultimate interior points of destination in this country are accorded rates never in excess of fourth class and in many instances much below fifth class."[8] The testimony of the railroads showed that "import glass could be transported from Antwerp, via Boston, to Chicago, a distance of 4000 miles for 40 cents, and via New Orleans, 5200 miles, for 32 cents; while the rate on domestic shipments was 50 cents for the haul of 999 miles from Boston to Chicago, and 75 cents from New Orleans to Chicago, a distance of 922 miles."

After taking due consideration of the ocean charge on the

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[7] Hearings before Committee on Interstate Commerce, U. S. Senate, Senate Document 244, 59th Congress, 1st Session, Vol. 3, p. 2164.

[8] Pittsburgh Plate Glass Co. *vs.* Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co., *et al.*, 13 I. C. C. 87. Decided January 13, 1908.

through rate, assuming it to be 10 cents, the following tabulation presents the situation complained of:

FROM	TO	IMPORT	DOMESTIC
Boston	Chicago	0.30	0.50
New Orleans	Chicago	0.22	0.75
Newport News	Chicago	0.29	0.43

It was also shown that since January 1, 1908, before the commission filed its decision, "the disparity between the inland rates on import glass and the rates applicable to domestic shipments, as in effect at the time of the hearing, has been substantially diminished, no changes having been made in the domestic car-load rates and the import rates having been materially increased." In the complaint, comparison was made between import rates applying from seaboard to inland points, and the domestic rates which were applicable from inland distributing centers to other inland points and to the seaboard. In other words, for the purpose of illustrating discrimination, the complainant compared rates applying on shipments in opposite directions and between inland points. The commission refused to uphold the complaint of unreasonable charges in domestic rates, under section 1 of the act, because of such a comparison.

The carriers defended the practice by pleading the existence of competitive forces from which they could not escape by concerted effort without coming under the condemnation of the Sherman Anti-Trust Act; also that the position of New Orleans further complicated the possibilities of any agreement because of the greater ocean mileage and the irregularity of steamship service which necessitated the granting of a low rate to this port. The roads also contended that without this import business the cars conveying exports to the Gulf would have to return empty.

It was shown that for the last several years import rates were constantly fluctuating chiefly because of the exigencies of the ocean carriers, and the railroads did not always receive the published import tariff as its division. The commission stated

that the competition from the Gulf to Canada, along the Atlantic seaboard, was such as to compel each road to under-bid its competitors if it desired to secure any portion of this import traffic.

In deciding this case the decision in the Import Rate Case was quoted fully and the commission concluded that "discriminations of the nature referred to in Sections 3 and 4 of the Act, insofar as they result from the bona fide action of a carrier in meeting circumstances and conditions not of its own creation, and which are reasonably necessary for that purpose, do not of necessity fall under the condemnation of the law. . . .

"Transportation from a seaport of the United States or an adjacent foreign country to an interior American destination in completion of a through movement of freight from a port of a foreign, but not adjacent country, whether upon a joint through rate or upon a separately established, or proportional, inland rate applicable only to imports moving through, is not a 'like service' to that of the transportation independent and complete within itself of traffic starting at such domestic port, though bound for the same destination." The charge of unjust discrimination under section 2 was, therefore, not upheld.

The Illinois Central stated that its domestic rates from New Orleans were only "paper" rates, as there were no shipments of plate glass originating at that port, and that if any such traffic were offered or could be developed at New Orleans, it probably would establish the import rate on all plateglass shipments.

The commission having been instructed by the Supreme Court in the Import Rate Case to consider all circumstances and conditions, both abroad and in this country, it decided that the intense competition to which this traffic was subject justified the disparity in rates, and that the latter, *per se*, was insufficient to prove unjust discrimination under the act.

Development of Import Rates via Gulf Ports.—The development of import rates via Gulf ports involved numerous controversies with Trunk Line roads. It was chiefly for the purpose of enabling Gulf Lines to secure a share of the import business of the United States that special rates on such traffic were quoted via this route. The territory particularly affected

by this competition was the trans-Missouri and Missouri River territory, these sections being tributary to both North Atlantic and Gulf ports.

As early as 1901, the railroads leading from Gulf ports began to develop an important import business from various European ports. In their efforts to secure this traffic no general basis of rates was observed causing constant fluctuation and instability of rates on imported goods. This condition was unsatisfactory both to the railroads and the shipping public.

In May, 1903, the western and southwestern lines adopted a resolution providing for the appointment of a committee of seven, with instructions to arrange for a meeting in New York with the Trunk Line Import Committee. The object of this meeting was to secure information which would enable them to recommend an adjustment improving the rate situation on import traffic from Atlantic and Gulf ports to trans-Missouri and Missouri River points. The committee was also instructed to include, if possible, in any arrangement which might be made, Colorado and Utah territory.[9]

Under this resolution, a committee was appointed consisting of the Illinois Central, Kansas City Southern, and the Missouri, Kansas & Texas Railroads to represent the Gulf lines; and the Chicago & Alton, Chicago, Burlington & Quincy, Chicago, Rock Island & Pacific, and Missouri-Pacific Railroads to represent the trans-Missouri and Missouri River lines.

The first meeting with the Trunk Line Import Committee was held in New York on June 11, 1903, and was followed by other meetings at various times. Different propositions were offered by both sides and every possible effort was made to reach an understanding, but it was impossible to attain complete harmony. At one time during this controversy, a tentative arrangement was agreed upon but this never became effective.[10]

In a final effort to settle the questions affecting the relationship between import rates via the Gulf and via the North Atlantic seaboards, it was decided to refer the matter to disinterested

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[9] Memo of Atlantic Port Lines to Messrs. Knott and Todd.
[10] *Ibid.*

persons as arbitrators. In pursuance of this plan, Percy R. Todd and Stuart R. Knott were appointed as arbitrators.

Both parties were agreed upon the foreign territory and substantially agreed upon the United States territory involved in the dispute. The places in which the disputed traffic originated were Europe, Asia and Africa, and the destinations in the United States were roughly fixed as west of the western termini of the Trunk Lines. They were likewise agreed upon the fact that all differences should be quoted in cents per 100 pounds, instead of percentages, and that all rates from ports of entry should be governed by the official classification.

The chief item in dispute was the actual difference in rates which should be granted to the Gulf ports. The Gulf Lines asked for differentials of 17, 14, 12, 8, 7 and 6 cents on the six classes, and 5 cents on commodities, below Baltimore rates, these being approximately 25 per cent of the all-rail rates, Baltimore to Chicago. In support of these differentials the important contentions made by the Gulf Lines were the following:[11]

1. Poor steamship service and long water routes were a hindrance to the development of an extensive import business to competitive United States territory. The Trunk Lines, in reply to this contention, claimed that all North Atlantic ports, with the exception of New York, were at the same disadvantage, and further, that the large majority of imports through these ports were destined for local consumption, and therefore, were not to be included in the disputed traffic.

2. Climatic conditions at Gulf ports were such as to prohibit the importation of certain commodities, such as cocoanut oil, olives, etc. The Trunk Lines declared that no freight rate allowance would be sufficient to overcome such a disadvantage as these products could not enter ports at which climatic conditions would cause them to spoil, and moreover, they claimed that this same disadvantage applied largely at Baltimore and Newport News.

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[11] Brief of Illinois Central R. R. and answers of Atlantic Port Lines, October 22, 1907. Compare with Import Rates, p. 54, Pittsburgh Plate Glass Case, in which the Trunk Lines upheld the same Gulf arguments as necessitated import rates lower than domestic rates, which they refute and consider irrelevant in this proceeding.

3. Marine insurance rates were much higher to Gulf ports from the foreign countries of origin than to North Atlantic ports. This disadvantage, the Trunk Lines contended, should be absorbed by the steamship lines and should not be placed as a burden upon the railroads. To offset this fact, the Trunk Lines pointed out that longer voyages to Gulf ports caused a saving to consignees in interest and storage charges on the cargoes.

4. Poor port facilities were claimed by the Gulf Lines as a reason justifying the differentials claimed. This condition, the Trunk Lines declared, existed at North Atlantic ports to a large extent, and even in the case of New York, lighterage was necessary for the unloading of cargoes.

The Trunk Lines also objected to the differentials claimed by the roads leading from the Gulf ports, inasmuch as such sums below Baltimore rates resulted in charges out of all proportion to New York rates. Thus, it was stated that these differentials would give Gulf Lines rates which would be the following percentages of the established rates from New York to Chicago:

CLASS	1	2	3	4	5	6	COMMODITIES
	(%)	(%)	(%)	(%)	(%)	(%)	(%)
Percentage of New York-Chicago rate	33⅓	33	30	31	33⅓	36	40 to 70

After continuous and thorough consideration of the points presented by both parties to the dispute, the arbitrators in October, 1907, recommended the adoption of the following basis for rates on the traffic in controversy[12]:

That the Gulf Lines use the following differentials below the standard all-rail rates, New York to Chicago, to establish their proportional rates on such traffic, viz.:

CLASSES	1	2	3	4	5	6
Cents per 100 pounds	18	18	12	8	8	6

[12] Recommendations of Percy R. Todd and Stuart R. Knott, arbitrators, October 29, 1907.

That differentials on articles covered by commodity rates be governed by the following rule:

1. On commodities taking less than sixth-class rates, the sixth-class differential should apply.

2. On commodities taking sixth-class rates or higher, the differential applying to the class rate nearest to such commodity rate to apply, except where the commodity rate is exactly intermediate between two class rates in which case the lower differential should apply.

That the traffic be governed by official classification and commodities as applied from Atlantic ports.

That the differentials thus recommended should not apply on traffic destined to points taking less than 100 per cent of the New York-Chicago scale basis except for:

(*a*) Traffic for Cincinnati proper.

(*b*) Traffic for Indianapolis proper.

(*c*) Traffic for points on the Illinois Central Railroad between Effingham, Ill., and Indianapolis, Ind., on the line of what was formerly the Indianapolis-Southern Railway. That these differentials should apply under New York import rates whether they be special rates, or the ordinary domestic rates.

This basis of adjustment was used by the Gulf Lines from 1907, until the rate advances of 1917 and 1920 greatly widened these differentials.

By 1910, the Gulf ports had in effect a far more comprehensive schedule of export and import rates than the ports on either the Pacific or Atlantic. The list of articles receiving special rates was not, however, so great for imports as for exports. Four import tariffs were in effect each naming the point of shipment abroad and the point of arrival in the United States between which the import rate would apply. Both commodity and class import tariffs were in effect.

On the Pacific Coast all the roads joined in the publication of an "Eastbound Proportional Tariff," which named import rates from Pacific Coast terminals on numerous commodities which were imported from Australasia, the Philippine Islands, Asia, Fiji Islands, New Zealand and beyond. Practically all the important articles of import from the countries named were

included in this tariff, there being practically no domestic traffic in such merchandise.

From the ports of Vancouver, Tacoma, Seattle and Portland, some few class rates were in effect.

On imports passing through the North Atlantic ports, special rates were quoted on certain designated commodities only, with the exception of Boston, from which some class rates were also in effect. The number of commodities on which import rates were granted was not large, there being only fifty-one commodities in the import tariff of the New York Central, while the Pennsylvania Railroad favored fifty-two commodities with special import rates.

The transcontinental lines also had special rates in force on imports through these ports to the Pacific Coast terminals.

Boston received the New York rates on imports carried by the standard lines, while the differential routes quoted rates lower than this basis. Philadelphia and Baltimore rates were 2 and 3 cents, respectively, below the New York rates.

Import Rates from Boston.—Early in 1909, the Boston roads had reduced the import rates, precipitating a rate war among the roads leading to all the North Atlantic ports.

As a means of terminating this war the roads serving Boston, New York, Philadelphia and Baltimore, and various trade bodies, requested the commission to investigate and settle this question.

On May 10, 1910, the commission made a temporary ruling that "the inland import rates from Boston, Philadelphia and Baltimore should be lower than from New York, and the same as then applied from Baltimore."[13]

Shortly after this, the Chamber of Commerce of the state of New York filed a complaint alleging unfair discrimination against New York because of lower export and import rates from Boston Philadelphia and Baltimore.[14]

The import class rates to Chicago established by the com-, mission, from the several ports, were as follows:

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[13] In the Matter of Import Rates, 24 I. C. C. 78. Decided June 4, 1912.

[14] Chamber of Commerce of the State of New York *vs.* New York Central & Hudson River R. R. Co., 24 I. C. C. 55. Decided June 4, 1912.

CLASSES	1	2	3	4	5	6
New York (domestic and import)	75	65	50	35	30	25
Philadelphia—import	67	57	47	32	27	22
Baltimore—import	67	57	47	32	27	22
Boston—import	67	57	47	32	27	22

Each of the parties to the proceeding argued for its own respective interests and attacked the natural advantages of its competitors as a reason why it should receive some advantage in the matter of rates. These natural benefits of the various ports were held intact by the commission, as it refused to deprive any locality of them. As in the case of export rates, the commission held that the roads leading to each of the ports could charge any rate they desired with the stipulation that such rates must be reasonable and fair.

The opinion of the commission was inserted in "In the Matter of Import Rates" as a permanent determination, but no order was issued, the case being held open until this should become necessary. The commission stated that the import differentials under New York should be no greater than 6 and 8 cents on Classes 1 and 2, and 2 and 3 cents on all other classes and commodities from Philadelphia and Baltimore, respectively, and that import rates from Boston should be no lower than New York import rates.

In the supplemental hearing of this case, October 14, 1912, the commission explained and modified this opinion.[15] It held that via all routes which import traffic may take from Boston and New York the rates should be no lower than from New York. No order was issued in this case, as the carriers were ready to readjust their rates in conformity with the opinions expressed, and the commission set January 1, 1913, as the date upon which such readjustments should become effective.

The supplemental report of "In the Matter of Import Rates," 24 I. C. C. 678, filed the same day as the above, stated specifically that the standard all-rail import rates from Boston should be the

[15] Chamber of Commerce of the State of New York, *et al. vs.* New York Central & Hudson River R. R. Co., *et al.*, 24 I. C. C. 674.

same as from New York on both class and commodity traffic.

Rehearing of this question was held in June, 1913, on motion of the Boston commercial interests and the Boston & Albany and Boston & Maine Railroads and was granted solely for the purpose of reconsidering the adjustment of import rates as between New York and Boston.[16]

The Boston interests urge that if the standard rail lines may not charge lower rates on import shipments from Boston than are charged from New York, it will be a serious blow to the import traffic through the port of Boston.

It was shown that the American Express Company solicited westbound traffic from Europe under a long-standing agreement with the Boston & Maine and the Boston & Albany, and that in competition abroad, this method would be of no avail if the import rates from Boston could be no lower than from New York. The commission held that the conditions of transportation from Boston and from New York were substantially similar and that no discrimination could be permitted. The Boston roads go 201 miles to Albany, where connections are made with the New York Central Railroad for the west, while the New York Central goes into New York from Albany, a distance of only 142 miles. In spite of this difference in distance, Boston counsel contended that terminal expenses were less at Boston and that this saving more than compensated for the cost of the extra haul. This comparison was rejected by the commission as inaccurate and inconclusive.

It was also argued that for many years, the import rates from Boston were, by agreement, lower than from New York and statistics were produced to show the movement of traffic during these periods. The figures for periods prior to 1906 were not accepted because of the fact that published tariffs were not adhered to at that time. Moreover, the New York, Philadelphia and Baltimore interests protested strenuously against the granting of lower import rates to Boston than to

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[16] Chamber of Commerce of the State of New York, *et al. vs.* New York Central & Hudson River R. R. Co., *et al.*, 27 I. C. C. 238. Decided June 15, 1913, and In the Matter of Import Rates, 27 I. C. C. 245, same date.

New York and stated that if such should be the case, the rates from those ports would be immediately reduced, restoring the existing relationship.

The commission held that the conclusions reached in the original and supplemental reports of this question were correct, thus definitely establishing the import rates from Boston as the New York import rates.

In 1916, the import rate adjustment at the Atlantic, Gulf and Pacific ports was practically the same as was in effect in 1910, virtually the same types of rates on the same commodities being quoted.

VI

Export and Import Rates During the War

Soon after the organization of the United States Railroad Administration, the Director General of Railroads issued General Order No. 28, dated May 25, 1918, and effective June 25, 1918. Section 3 of this order provided as follows:

"All export and import rates shall be cancelled and domestic rates applied to and from the ports." At the same time, all freight rates were increased 25 per cent, with certain modifications.

Obviously, this horizontal rate increase, coupled with the cancellation of all special export and import rates, would tend to destroy the port relationships affecting export and import traffic which had finally been adjusted after many years of conflict.

As it soon developed that endless confusion would result from the execution of this order, the Director General issued special instructions providing that import and export rates from and to certain ports only should be cancelled and that the rates to and from other ports should be revised so as to reflect the existing port relationships. This procedure could not be carried out in time to become effective June 25th, and further instructions were issued to the effect that for ports from and to which rates were not to be cancelled, such rates should be increased in accordance with General Order 28 and later revised to reflect the relationship existing in the rates from and to the other ports where domestic rates had been made to apply. By using the domestic rates of a certain port as the basis for the rate on each particular commodity the rates to and from competing ports were fixed in such a manner as to maintain the port relationship which existed on June 24, 1918.

The export and import rate structures, as devised by the Railroad Administration, are partly of this character and are in effect at the present time.

Part II.—The Present Export and Import Rate Structures.

Introduction[1]

There are discernible in the present export and import rate structures, two general methods of establishing rates, both of which are based upon the rate applying at a so-called pivotal or key port, thus emphasizing the principle of port equalization.

The first of these methods is that which was established by the United States Railroad Administration. This plan consists of applying the domestic rate of a pivotal or key port as the basis for export and import rates, and to adjust the rates for other ports in such a way as to maintain the same relationships which existed between competing ports before General Order No. 28 of the Director General cancelled all such rates. The pivotal port, therefore, is not accorded any special rate on foreign business, but inasmuch as the port selected as the basis is usually the one enjoying the lowest domestic rate on a particular type of traffic or on a given seaboard, it follows that all other ports which are adjusted with reference to the rates of the key port, obtain rates that are lower on foreign business than on similar domestic traffic.

The second method is the fixing of export and import rates by means of a differential adjustment based upon the rates applicable at the selected key or pivotal port; or in some cases, the adoption of the rate of the key port as the actual export or import rate for other ports within a given seaboard. Thus, on some imported traffic shipped to central western points via Gulf ports, the rates are the same as the corresponding New York charges, while on certain other traffic, the rates are adjusted at fixed differentials below the New York level. Similarly, the eastern Canadian ports are placed on a parity with one or another of the North Atlantic ports of the United States for the adjustment of their rates on foreign business.

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[1] For a more detailed discussion of this subject, see "Preferential Transportation Rates," United States Tariff Commission, 1922.

This method differs from the former in two respects: First, the port selected as the key port is not necessarily the one enjoying the lowest domestic rate, and second, the rate applied at the key port to be used as the basis for the rates at the other ports is not necessarily a domestic rate.

Not all export and import rates are made upon one of the preceding well-defined plans. In some instances, particularly on the Pacific Coast, the rates on foreign traffic are adjusted in such a manner as to enable the Pacific ports to compete with the ports on the Atlantic and Gulf seaboards. Specific reductions are granted from the prevailing domestic charges, the resulting amount being low enough to warrant to the Pacific ports a share in the export and import business of the country.

Keeping in mind this brief survey of the general methods employed in arriving at the export or import rate to be applied at a particular port, it is now appropriate to analyze the existing export and import rate structures.

VII

Export Rates

The export-rate structure of the United States may be conveniently classified as follows:

1. Export rates from Central Western points to North Atlantic ports.
2. Export rates from Central Western points to South Atlantic ports.
3. Export rates from Central Western points to Gulf ports.
4. Export rates from Central Western, Eastern and Southern points to Pacific Coast ports.
5. Export rates from interior Southern points to Gulf and South Atlantic ports.
6. Export rates from interior Southern points to North Atlantic ports.

1. *Export Rates from Central Western Points to North Atlantic Ports.*—The rate adjustment which is in effect between the various North Atlantic ports is one of long standing and has been the occasion for numerous cases before the Interstate Commerce Commission. Each of these ports has consistently striven to obtain as much business, both foreign and domestic, as it possibly could. Competition has been and is intense and only by aligning the ports on the basis of fixed relationships aimed to equalize, as far as possible, the advantages and disadvantages possessed by each, has any satisfactory adjustment ever been possible. These relationships are known as port differentials, and apply similarly, with few exceptions, to both domestic and foreign traffic.

The competitive conditions between North Atlantic ports have been rendered still more intense by the existence of various routes, some of which are slower and more roundabout, and therefore, must be accorded lower rates. The standard all-rail routes form the basis for the rates on all other shipments over differential rail, canal and lake, rail and lake, rail and water, and other similar routes.

The principal competitive factor encountered in shipments to and from the North Atlantic seaboard, is that of the ports themselves. New York, Philadelphia and Baltimore are basic for adjustments at other ports in the United States and Canada. Philadelphia is accorded a differential of 2 cents per 100 pounds, and Baltimore 3 cents per 100 pounds below the current New York rates. For shipments originating just west of the line from Buffalo through Pittsburgh, these differentials are somewhat greater.

The cases in which these ports receive rates on export business that are lower than on similar domestic business are few; indeed, there is little need of granting special rates at these ports, as they are basic for the adjustments in effect at other ports in the United States and Canada.

On grain and grain products for export, the Baltimore and Philadelphia differentials are just one-half of the amounts granted for general business being 1½ cents and 1 cent, respectively. Export flour is another article on which a special adjustment is made, in this case the Baltimore and Philadelphia differentials below the New York rates being 2 cents and 1 cent, respectively. Strictly speaking, New York and Philadelphia receive the special arrangement in export flour rates because the Baltimore domestic rates were used as the basis in arriving at this alignment and the rates for the two ports north of Baltimore are lower than the corresponding domestic rates.

On a large list of iron and steel articles from specified Central Western points to North Atlantic ports, export rates which are less than domestic rates are quoted.

Finally, exported agricultural implements from the Central West to the North Atlantic ports are carried at special rates.

These four commodities represent all of the special export adjustments on traffic from the Central West to the ports of Baltimore, Philadelphia and New York.

The rates to other ports within the North Atlantic seaboard are then fixed with reference to the rates in effect at one of these three basic ports, and special export adjustments are frequently made.

Norfolk and Newport News are usually accorded the Balti-

more basis, although special export rates on a large list of commodities are also granted.[1]

Boston is placed on the New York basis for export business. The principle which governs this adjustment is, that in the through transportation from a given point in the interior of the United States to a given foreign port, the rail line in this country is merely a link and must be enabled to quote such rates as will equalize the combined rail-and-water charges to the foreign destination, irrespective of the port on this seaboard through which the traffic passes.[2] The Boston export adjustment gives to that city lower rates on traffic going out of the country than that consigned locally.

Portland, Me., is granted the Boston domestic rates on export traffic, with the exception that the Grand Trunk Railway is permitted to charge the Boston export rates. This is due to the fact that the Grand Trunk is a differential line, and in order to get any export business, must be placed upon this lower basis.

The Eastern Canadian ports are adjusted variously. Montreal is usually accorded the domestic and export rates of Philadelphia; and Quebec, St. John and West St. John, the New York rates—domestic and export. This alignment has been temporarily disturbed by rate revisions, but it is the fundamental adjustment. Halifax is granted a differential of 1 cent over the Quebec or St. John export rates. Different alignments are also made for specified traffic when originating at designated points in the Central West.

The entire rate structure within the North Atlantic seaboard is thus designed to equalize all of the ports in the matter of their export business the underlying principle being to enable traffic originating in the Central West to pass through any port, at substantially equal rates to the foreign destination. The dominance of this structure upon the adjustments at other seaboards

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[1] These commodities are mastic blocks, depilatory, feldspar, flint, aluminum fluoride, kaolin live stock (cattle, calves, goats, lambs, sheep, hogs), ammoniacal liquors, concentrated lye (dry), coal tar, oil, etc., petroleum and petroleum products, potash (muriate and sulphate), wood pulp (wet), salt, salts (Epsom and Glauber), shale, acetate of soda, soda ash, sodas (various), natural stone, wash or laundry tubs, and chloride of zinc. These rates apply on traffic destined to all foreign countries (except Mexico), and all insular possessions of the United States.

[2] See pp. 7 and 17, *Supra*.

will be disclosed in analyzing the rates to these other sections.

2. *Export Rates from Central Western Points to the South Atlantic Seaboard.*—The granting of special export rates from Central Western points to South Atlantic ports is of comparatively recent date and was for the purpose of distributing "the movement of the traffic for the advantage of all interests."[3]

The outstanding features of the export rate adjustment at the South Atlantic seaboard, are the general blanketing of rates to all the ports, and the definite relationships which they bear to the rates of the North Atlantic ports.

Traffic which comes from the Ohio River crossings or St. Louis, is usually carried at rates based either on Baltimore or Norfolk; while from points of origin located in the Central West north of the Ohio River and east of the Mississippi River, the rates are adjusted on the New York basis. Exceptions to this general structure occur in the case of specified commodity rates which are not, in some instances, blanketed to all of the South Atlantic ports.

3. *Export Rates from Central Western Points to Gulf Ports.*—In the export rate structure in effect at the Gulf ports, there is evident the keen efforts of the railroads serving this seaboard to obtain a share of the export business of the country. Numerous special export rates are quoted and are arranged on a basis far more elaborate than those of any other section of the United States. It is impossible to ascertain the extent to which these special rates have enabled the ports on the Gulf to obtain more export traffic, but doubtless the great importance of Galveston and New Orleans is due partly to this influence.

In analyzing this rate structure, there are discernible two dominant principles similar to those encountered in the South Atlantic structure: First, the general blanketing of rates at all of the Gulf ports from Pensacola to Galveston, with Key West, Tampa and Port Tampa, Fla., adjusted at certain differentials higher than this basis; and second, the basing of rates upon those in effect from the same points of origin in the Central West to either New York or Baltimore. Thus the principle of port equalization again stands out most prominently.

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[3] Annual Report, 1919, Director General Hines. (Division of Traffic.)

Export rates to the Gulf ports vary according to the foreign country to which the traffic is destined, and in some cases, according to the particular commodity on which the rates are quoted. The reason for this refinement is the desire to offset the competitive advantages possessed by the North Atlantic ports, the advantages being greater in some trades than in others. Thus in the trade with Europe, the latter enjoy shorter distances, better and more frequent steamship services and similar handicaps which the Gulf ports are forced to overcome in the railroad export rate, while in the trade with other sections of the world, the disadvantages possessed by the Gulf ports are less.

According to countries of destination, involving in some instances, specified commodities only, the Gulf export rates may be divided into six groups, viz.:

(1) Export rates to all foreign countries: On some articles, export rates apply irrespective of the country to which the goods are consigned. The basis for these rates, in most instances, is the rate to some pivotal or key port, usually New York. From some specified points in the Central West located beyond the Mississippi River, the basis is the rate to a pivotal Gulf port. In addition to these all-rail adjustments, there are water and rail-water rates which are quoted from designated Central Western points at fixed differentials below the all-rail rates.

(2) Export rates to Europe and Africa: Export rates on traffic destined to Europe and Africa and subject to the classification are quoted from specified points west of the Mississippi River. The basis adopted is the domestic rate of a pivotal Gulf port, all other Gulf ports receiving the same amount as a special export rate.

On commodity traffic originating at designated points in the Central West and at some additional points beyond the Mississippi, export rates are quoted on varying bases—in some cases New York, in others Baltimore, and in still other instances, the domestic rate to a Gulf port. The resulting charges are, for reasons previously stated, lower than for the same shipments destined to other sections of the world.

(3) Export rates to countries other than Europe and Africa: Export rates are quoted to Gulf ports on class traffic destined to countries other than Europe and Africa. From points located in the section north of the Ohio River and east of the Mississippi River, the rates are the same as those in effect from the same points to New York; while from the Ohio River crossings to the Gulf ports, the rates are slightly different from the New York charges, being adjusted at differentials below the Chicago-New Orleans rates. Export class rates are also named on traffic originating at points in the Central West beyond the Mississippi River, the basis adopted in this case being the domestic rate of a pivotal Gulf port.

The rates on commodity traffic exported from the Central West via the Gulf seaboard are frequently the same as the rates charged on traffic destined to Europe and Africa, although higher rates than in the latter trade are often in effect. In this case the structure bears a closer relationship to either the Baltimore or New York rates than does that applying on traffic destined to Europe and Africa.

The preceding three groups comprise all of the general export rates in effect from the Central West to the Gulf ports from Pensacola to Galveston. The commodities so favored are numerous due to the desire of the Gulf Lines to attract a share of the business originating in this competitive area of the United States.

The next two groups include rates on only two different commodities when exported to designated foreign countries.

(4) Export rates to Europe, Asia, Africa, Australia, New Zealand and the Philippine Islands: These rates are re-shipping rates on grain, and grain products only, and apply solely from a limited number of points located in the Central West.

(5) Export rates to countries other than Europe, Asia, Africa, Australia and New Zealand: Separate rates are quoted on grain, and grain products, originating at specified Central Western points when exported to countries other than those named above. In addition to these commodities, export rates are similarly in effect on petroleum and petroleum products.

(6) Export rates to Key West, Tampa and Port Tampa on

Cuban traffic: This last group comprises those Gulf ports which are not included in the general blanketing along the Gulf seaboard and the rates apply only on traffic destined to Cuba. Both class and commodity rates are quoted on shipments originating in the Central West. The basis adopted for this structure is the rate to the Gulf ports on the same business, the actual rates named being certain differentials above these. The purpose of this adjustment is again that of port equalization as the Florida ports possess an advantage in steamship rates to Cuba; by being placed on a higher basis than the Gulf ports for the rail charges, the through rate to Cuba is substantially the same via either route.

4. *Export Rates from Central Western, Eastern and Southern Points to Pacific Coast Ports.*—Export rates are named to Pacific Coast ports only on traffic for which these ports are in a position to compete, namely, traffic destined to specified countries bordering on the Pacific Ocean. Obviously, export shipments routed from say Chicago to Japan via the Pacific seaboard, are greatly handicapped due to the long and expensive rail haul across the continent. Of course, the ocean voyage to Japan from the western coast of the country is much shorter than that from the eastern end, but ocean freight rates are much lower relatively than rail charges and the distance factor is not nearly so important. It is necessary, therefore, that in order to get any export business for those countries which they are nearer geographically than any other seaboard in the country, but which business largely originates in sections of the United States from which they are far removed, the Pacific ports must quote such rail rates as will equalize the combined rail-and-water rates from the point of origin to the foreign destination via any seaboard. This is the avowed purpose of export rates to Pacific ports, as stated by the Director General of Railroads in 1919.[4]

Export rates from points in the Central West, East and South to Pacific Coast ports are named on a large list of com-

[4] The revision of export rates to Pacific ports was undertaken to "more nearly equalize the shipping routes via the Atlantic and Gulf ports." Director General Hines, Annual Report 1919, Division of Traffic, p. 5.

modities; while for traffic not specifically enumerated among the commodities and for alternative use with the former in order to obtain the lowest rate quoted, the domestic rate of either San Francisco or Seattle is used as the basis for export rates.

There are three outstanding features of the commodity rate structure here involved:

(1) The foreign points of destination on which these rates apply are limited to or beyond Yokohama, Kobe, Nagasaki and Moji, Japan; Shanghai and Hong Kong, China; Manila, P. I.; India; Sydney, Australia; Suva, Fiji Islands, and Auckland and Wellington, N. Z. These are the countries for which the Pacific ports possess, in most instances, an advantage over other seaboards of the United States in the matter of steamship rates.

(2) The points of origin in the East, Central West and South are widely blanketed, distance being practically eliminated as a factor in the establishment of these rates. From all points in the East and Central West up to, but not including Chicago, the rate is uniform on export shipments to the Pacific Coast; while from the territory between Chicago and specified points in Wyoming, Colorado, New Mexico and the Dakotas and Midvale, Utah, the rates are blanketed at a lower level than under the preceding arrangement. It is thus apparent that the railroads serving the ports of the Pacific seaboard, in their efforts to secure a share of the export business of the country with the Far East, have developed a rate structure that applies only two different rates on traffic originating anywhere between the Atlantic Ocean and the Rocky Mountains. The object of this adjustment, as stated before, is the equalization of the combined rail and ocean rate from the competitive areas of the United States to the countries across the Pacific.

(3) The third feature of the export rate structure of the Pacific Coast is the equalization of ports along that seaboard. The structure thus involves the alignment both of seaboards and of ports. The latter is accomplished by the blanketing of rates at all the ports on the Pacific Coast, enabling traffic to flow, insofar as the rates are concerned, through any of them.

The second adjustment of export rates to the Pacific seaboard,

is by means of the adoption of the domestic rates of San Francisco or Seattle, whichever is lower, as the basis for export rates. This is employed whenever there are no commodity rates quoted or whenever the rate obtained by this method is lower than that provided by the commodity adjustment.

The same three features noted in the latter are present, with modifications, in this arrangement.

(1) The foreign points of destination are more broadly designated, the rates applying on shipments to Asia, Australia, New Zealand, Fiji Islands and the Philippine Islands.

(2) The points of origin in the East, Central West and South are not so widely blanketed. Instead, they are divided into a number of groups designated by letters, and the rates generally increase with each group as the distance to the Pacific Coast increases. The blanketing of rates is thus confined to geographical areas which are much smaller than the territory for which the rates are the same in the commodity rate structure.

(3) As in the latter adjustment the rates are blanketed at all of the ports on the Pacific seaboard.

On shipments to the Hawaiian Islands, Mexico, Central America, South America, Alaska and points on or tributary to the Yukon River and ports in British Columbia north of Queen Charlotte Sound, the domestic rates of either San Francisco or Seattle are also used as the basis for export rates to the Pacific ports.

5. *Export Rates from Interior Southern Points to Gulf and South Atlantic Ports.*—Numerous export commodity rates are quoted on shipments from southern points to ports on the Gulf and South Atlantic seaboards. The plan usually followed is the selection of the rate from a particular southern point to a pivotal port, and the application of this charge as an export rate for all other ports. The basic rate so adopted is ordinarily the lowest domestic rate obtainable. The two seaboards involved are frequently placed on the same competitive footing, as the same basic export rate is often applied at both Gulf and South Atlantic ports. In not all cases are the rates blanketed even at every port within a particular seaboard, but this is more the exception than the rule.

On Cuban traffic, as in the case of export rates from the Central West to Gulf ports, a special adjustment is sometimes observed. The commodity rates quoted on this business are more numerous than, although frequently identical with, the general export rates discussed in the preceding paragraph. Exceptions also occur in the variations as to points of origin in the South and as to the ports at which the rates apply.

6. *Export Rates from Interior Southern Points to North Atlantic Ports.*—Some special export rates are quoted to North Atlantic ports on traffic originating in the South. Two general plans are discernible in the adjustment of these rates: First, the effort to equalize the North Atlantic ports with the South Atlantic, in which case the rates are based upon the rates to Norfolk or Baltimore, and second, the desire to equalize the ports within the North Atlantic seaboard, in which case no general adjustment is made, each rate being fixed at such an amount as to fit in with this general purpose.

VIII

Import Rates

The classification of the import rate structure of the United States is very similar to that of export rates applying, of course, in the opposite direction. The broad topics under which this subject will be treated are as follows:

1. Import rates from North Atlantic ports to the Central West.
2. Import rates from South Atlantic ports to the Central West.
3. Import rates from Gulf ports to the Central West.
4. Import rates from Pacific Coast ports to the Central West and East.
5. Import rates from Gulf and South Atlantic ports to interior southern points.

1. *Import Rates from North Atlantic Ports to the Central West.* —Just as the North Atlantic ports are dominant in the export-rate structure of the country, so they are fundamental in the adjustment of import rates. This area of the Atlantic seaboard controls a greater share of the import business of the country than it does the export traffic. In the calendar year 1921, the North Atlantic ports handled nearly 68 per cent of the total imports of the United States compared with 50 per cent of the exports.[1] Thus, the dominance of this section is even more marked in the case of the former than in the latter.

Import rates to the Central West from North Atlantic ports are adjusted in a manner very similar to the export rates applying in the opposite direction. The intense port rivalry has resulted in the alignment of ports according to fixed differentials

[1] Foreign Commerce and Navigation of the United States 1921, Bureau of Foreign and Domestic Commerce, Department of Commerce.

which have remained uniform for many years. The general rate structure allows for no special adjustments on imports passing through the basic ports of the North Atlantic seaboard, insofar as the relationship between them is concerned. The same differentials which are observed on domestic business are observed on import traffic. The New York domestic rates being basic, Philadelphia is granted a differential of 2 cents below them, as in the case of exports, except that for the first and second classes of traffic, the differential is 6 cents, and Baltimore is again, as with exports, placed on the basis of 3 cents below the New York rates, except that a differential of 8 cents is observed for the first two classes of traffic. Norfolk and Newport News, Va., are usually accorded the Baltimore rates with some exceptions on short hauls.

Boston is not granted any special adjustment on imports, as is the case with exports, because the westbound domestic rates from Boston are the same as the New York rates, except that for relatively short hauls to points in the Central West comparatively near the ports, the Boston rates are higher by fixed differentials. On import business this same arrangement is observed. Portland, Me., is in turn, granted the Boston rates on imports with the same exception which was noted in the case of exports, namely, that the Grand Trunk being a "differential" line is placed on the Baltimore basis. Due to recent rate advances this relationship has been temporarily disturbed resulting in rates lower than Baltimore.

All of the Eastern Canadian ports are granted a special adjustment on imports, because of the natural hindrances which they face, rendering it otherwise difficult for them to secure any of this competitive business. Montreal, Quebec, St. John, and West St. John are placed on the Baltimore basis, while Halifax is adjusted a little higher than this.

As was noted in the case of exports there are various routes over which traffic may move between the Central West and the North Atlantic ports, each of them offering different rates to the shipper. The same general port adjustment which has been given applies over all of these routes, except that from Boston, the rates are higher than the New York rates on all routes other than the all-rail.

At present, there are more special import commodity rates in effect at the North Atlantic ports than there are special export rates. These apply on twenty-eight commodities imported through any North Atlantic port to designated points in the Central West.[2]

The controlling position of the basic North Atlantic ports will be shown in a study of the structures at the other seaboards of the country.

2. *Import Rates from South Atlantic Ports to the Central West.*—Practically all of the import rates here involved are from the port of Savannah. The fundamental basis for this adjustment is the domestic (import) rate from Baltimore, although the rate changes of 1920 and 1922 have disturbed this relationship. Both the places of origin and destination are limited in the application of these tariffs; the former to traffic from Europe, Asia and Africa only, and the latter to specified points located in the Central West.

3. *Import Rates from Gulf Ports to the Central West.*—The import rates applying from the Gulf ports to Central Western points are elaborately arranged as to foreign points of origin, just as are the export rates on traffic moving in the opposite direction. The reason for adjusting rates with reference to foreign countries, either of origin or destination, is the desire to compete most effectively with the North Atlantic ports and to obtain a share of the foreign business of the United States. This the Gulf ports have been able to accomplish more in the export trade than in the import.

According to the foreign countries of origin, import rates from Gulf ports to the Central West may be classified into three groups:

(1) From Europe and Africa: The Gulf ports, in competing with the North Atlantic ports for import traffic from Europe and Africa, are at a distinct disadvantage in many respects.

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[2] These commodities are ammonia (muriate of, or sal ammoniac), bagging (burlap or gunny), bleach, salt cake, crude chalk, china clay, corkwood, fuller's earth, feldspar, flint, kainit, kaolin, mass licorice, sulphate of lime, logs, magnesite, magnesite ore, flint pebbles, muriate and sulphate of potash, wood-pulp, garnet rock, licorice roots, hart and manure salts, sugar beet seeds, carbon slack, sodas (specified), sylvanit and talc. See W. S. Curlett, I. C. C. A-83, and supplements thereto.

including steamship distances, steamship services and rates, etc. It is, therefore, necessary for them, if they desire to obtain a share of this business, to do so by means of quoting lower rates which will compensate for their unfavorable circumstances. The fundamental adjustment, aimed to enable the Gulf ports to compete for this traffic, is that which was recommended by the Arbitration Committee of 1907, and which granted to Gulf ports fixed differentials below the New York rates as follows:[3]

CLASSES	1	2	3	4	5	6
Differentials	18	18	12	8	8	6

This adjustment has been disrupted several times, due to changes in rates, but it is the equilibrium toward which these disturbing competitive factors tend, and with the re-establishment of normal conditions will undoubtedly be accurately applied again.

(2) From Asia, Australia, New Zealand, Philippine Islands, Central and South America: On import traffic from these countries, the Gulf lines are more on an equal footing with the North Atlantic lines than they are in the European and African business. They even possess a slight advantage in distance from these oversea countries. It is, therefore, unnecessary in this case to grant to ports on the Gulf seaboard, differentials below the rates in effect at the North Atlantic; they are able to hold their own in this particular business. Equalization of the two seaboards is obtained by merely applying to the Gulf ports, in most instances, the New York rates; while for traffic coming from Central and South America, the basic adjustment has been the Baltimore rates. Although the rate changes of 1920 and 1922 have temporarily disturbed these alignments, there is no doubt that they will be restored as soon as practicable.

(3) Special commodity rates from Central and South America, Mexico, West Indies and all countries other than Europe, Asia, Africa, Australia, New Zealand and the Philippine Islands: These rates are on many commodities peculiar to the Western

[3] For a complete discussion of the controversy between the Gulf lines and the North Atlantic lines, together with the full recommendations of the Arbitration Committee, see p. 59-60, *supra*.

Hemisphere south of the United States and are fundamentally based upon the Baltimore adjustment. Included in the list of articles so favored are asphalt, nitrate of soda, cocoa, beans, cigars, cigarettes and tobacco, various fruits, cabinet woods and sisal or istle.

Equalization of the various Gulf ports from Pensacola to Galveston, is accomplished by the general blanketing of rates at all of these ports. Thus the competitive alignment of the Gulf and North Atlantic seaboards and of the ports within the Gulf seaboard is realized by the peculiar rate structure adopted.

As in the case of export rates, the ports of Key West and Port Tampa are placed on a somewhat different basis for Cuban business. The geographical advantage which they possess over other Gulf ports competing for this trade, is overcome by charging higher rail rates from these Florida ports than from the Gulf ports.

In addition to the all-rail rates so far discussed, there are water and water-rail rates applying from New Orleans to points in the Central West. These are generally fixed at 80 per cent of the corresponding all-rail charges, the maximum difference being that between the New Orleans-St. Louis all-rail rates and the New Orleans-St. Louis all-water rates.

4. *Import Rates from Pacific Coast Ports to the Central West and East.*—The import rate structure applying from the Pacific Coast ports is very similar to the export rate structure previously described.

(1) All of the ports from San Diego, Cal., to Prince Rupert, B. C., are blanketed, the same rate applying from any of them.

(2) The countries of origin are specified and include those parts of the world for whose business the Pacific ports are in a position to compete with the Gulf and North Atlantic ports. The rates apply on traffic from Asia, Philippine Islands, Australia, New Zealand and the Fiji Islands, and in cases in which specifically authorized from other Pacific islands, Central and South America, Mexico and the Hawaiian Islands.

(3) The points of destination in the United States are grouped the same as they are in the export rate structure—the general blanketing of all points in the East up to Chicago, and the

blanketing at a lower rate of all points from and including Chicago to and including points in Colorado, Wyoming, New Mexico, North and South Dakota.

The two-fold purpose of equalizing the Pacific seaboard with the other seaboards of the United States and of equalizing ports within the Pacific Coast area, is thus accomplished by means of this rate structure. There is no established or fundamental basis for the rates as quoted they being fixed at amounts which will enable importers located west of the Rocky Mountains to choose, on a substantially equal cost basis, any seaboard of the United States through which to have their goods routed. From some foreign countries, such as Japan and China, the steamship rates to the Pacific ports give the latter an advantage over the Gulf and North Atlantic ports thus placing them in a more favorable position to secure this traffic. Prior to the opening of the Panama Canal this advantage was even more marked. From such countries as India, Malay, and the East Indies, however, the North Atlantic and Gulf ports are able to obtain favorable steamship rates due to the possibility of shipping goods via the Suez Canal, and the competition for this traffic is more intense.

The commodities which are favored with special import rates from the Pacific ports are almost exclusively typical trans-Pacific products. The rates quoted are lower than domestic rates on the same articles, but this disparity is more apparent than real, because there is little or no domestic traffic in these commodities from the Pacific seaboard. The domestic rates are, therefore, largely "paper rates" and are seldom, if ever, used.

5. *Import Rates from Gulf and South Atlantic Ports to Interior Southern Points.*—Import rates embraced within this section are quoted on a large list of commodities. The purposes for which they are established are to equalize the ports within each seaboard, and also to equalize the two seaboards in their competition for the import business of the South. As indicated by the products on which import rates are named, the rivalry is largely for traffic which originates in Mexico, Central and South America and the Antilles, although no designation of the countries of origin is made in the tariffs. Typical products so

favored are fertilizer material, gum chicle, asphalt, cabinet woods, fruits, blackstrap molasses, sugar and pyrites. Because of the specialized nature of this traffic the rates apply only to certain specified points of destination in the South which are served, in some instances, by rail lines from both the Gulf and South Atlantic ports.

The general plan followed in the adjustment of import rates from the Gulf seaboard to southern points is quite similar to the import rate structure from these ports to the Central West. Competition between the various Gulf ports usually leads to the blanketing of rates, the basis for the actual rate adopted being, in most instances, the lowest domestic rate from any of the ports. In isolated cases special competitive conditions prevailing between the Gulf ports or between the Gulf and South Atlantic seaboards cause a deviation from this general plan.

Key West, Fla., is not accorded the rates granted to the other ports, but for reasons previously discussed, is adjusted at amounts higher than the rates in force from the Gulf ports.

Import rates from the South Atlantic ports to southern points are blanketed, in some cases, on the basis of the domestic rate of one of the ports, and in others, bear a definite relationship to the import rates in effect from the Gulf ports.

The entire structure is thus built upon the desire to equalize all of the ports within a given seaboard in their competition for the import business of the South, and whenever both the Gulf and South Atlantic areas are in a position to bid for the traffic, the rates must be fixed in such a manner as to equalize the two seaboards.

Part III.—The Effect of Export and Import Rates Upon the Foreign Trade of the United States.

Introduction

The Purpose of Export and Import Rates.—The primary and fundamental purpose of the railroads in quoting rates on specified export and import traffic that are lower than rates on the same commodities when moving in domestic trade, is to distribute the business among competing railroads serving rival ports and seaboards. This fact is evident from the data set forth tracing the development of preferential transportation rates and from the survey of existing export and import rate structures.

This competition is manifest among ports located within one seaboard and also among the four seaboards of the United States. Ports within one seaboard are placed upon a competitive footing either, as in the case of North Atlantic ports, by a fixed differential adjustment aimed to reflect accurately the relationship between them and intended to equalize the combination rail and ocean rate through any of them and between foreign ports and interior points in the United States, or by a general blanketing of the rates at all the ports within a given seaboard as is the practice at South Atlantic, Gulf and Pacific ports.

As between competing seaboards, the method has been to adjust rates with relation to the rates of that seaboard which is dominant in the trade and has control of the bulk of international business. The great majority of special rates on foreign traffic are in effect at ports other than New York, Philadelphia and Baltimore; while the Boston adjustment for export traffic is merely an application of the principle recognized in the westbound adjustment, both import and domestic. These four ports normally handle 63 per cent of the foreign trade of the United States (50 per cent of the exports, and 75 per cent of the imports). Their dominant position in the handling of merchandise entering into international commerce has placed the railroads which serve these ports in a controlling position over the freight rates at which such goods are to be carried. The widespread application of lower rates on export and import

traffic than on domestic traffic handled at these ports would be of little or no value, as business comes to this section because of strategic location (being on the direct line from the Central West to European markets especially), adequate port facilities, steamship and insurance services, freight forwarders, export houses, financial institutions, etc. The burden is placed upon the ports that are not so favorably situated, or provided with facilities for foreign trade, to quote rates that will attract foreign business if they desire to obtain any of the import or export traffic of the country.

For this reason the ports that are situated on the South Atlantic, Gulf and Pacific seaboards of the United States, have been forced to obtain rates that will at least, when added to the ocean charges in effect to and from foreign destinations, equalize the through transportation rate, and if possible, to secure a still lower rate than would be quoted from the North Atlantic ports in order to offset the disadvantages as to foreign trade services, etc., under which they must operate. The present import and export rate structure reveals definitely this purpose; the basis for practically all the special rates in effect to and from South Atlantic, Gulf and Pacific ports being the domestic rate of one or another of the North Atlantic ports.

Wherever a strict differential adjustment of rates is effective, it has been the result of conference, concessions obtained and concessions granted between, or among, the carriers interested in that particular adjustment. The long-standing relationship between the competing North Atlantic ports has been under controversy probably more than any other subject of railroad rates, or relationships, and has just recently been questioned again. The import differential adjustment in effect from Gulf ports is the result of long drawn-out controversy between the lines serving the North Atlantic ports, which already controlled nearly all of the business, and the roads leading from the Gulf ports as the aggressors in the field for a share of this traffic.

In addition to this struggle among all of the railroads serving the ports, the public has also been actively engaged in this matter. Chambers of Commerce, Boards of Trade, and similar public bodies have frequently been the parties who have brought

cases before the Interstate Commerce Commission for the purpose of obtaining some concession in rates on exports and imports handled, or capable of being handled, at those ports. Such concessions mean more business for whatever foreign trade concerns, and facilities, may be located at that port, in addition to attracting more varied steamship services. The railroad is, of course, interested in increasing the traffic available to it thus enhancing its revenues, but the business interests are likewise greatly concerned as it means to them the growth of their city, together with the increased turnover that they will realize. In this respect, an anomalous condition is presented in that these public bodies are frequently attacking the railroad serving their ports because of unreasonable rates which it charges, in comparison with the rates in effect at other ports, and at the same time, they are backing up the railroad and forcing it to obtain rate adjustments that will enable their own particular port to share in the foreign trade of the United States. The motives are similar—competition—but their expression takes widely divergent paths.

The reason for lower rates on export and import traffic than on domestic business, as applied to the competing ports within one seaboard, was stated by Albert Fink in 1881:

> . . . as the through rates through various cities to foreign destinations must be made with a view to meeting competition in foreign markets, that is, must be substantially the same via all routes, and the Trunk Lines are simply links in the through route between the common points of competition in this and foreign countries, the proportion of the through rate, or that proportion of it which the Trunk Lines can charge, must be determined with regard to the competition in export trade, and that proportion may and does greatly differ from the domestic rates established upon a pro rata principle.[1]

The United States Supreme Court, in the Import Rate Case, justified the existence of such rates, as reflecting the competition between seaboards, by declaring that the foreign business of the railroads was subject to intense competition, and that it was

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[1] Albert Fink, "Report Upon the Adjustment of Railroad Transportation Rates to Seaboard Cities." See p. 7, *supra*.

carried on under circumstances and conditions greatly dissimilar from domestic business.[2]

A recent explanation of preferential transportation rates, of special interest and significance because made by an agency of the United States Government, is that contained in the 1919 Annual Report of the Director General of Railroads:

"The restoration of more nearly normal commercial conditions, the larger number of American ships available for foreign trade, and the continued congestion at many ports soon demonstrated the necessity of equalizing the rate bases to and from certain territories and ports so as to distribute the movement of the traffic for the advantage of all interests. Among the changes or revisions made are the revision of both import and export rates via Pacific Coast ports more nearly to equalize the shipping routes via the Atlantic and Gulf ports, and the publication of revised export rates from points in central territory to the South Atlantic and Gulf ports better to distribute export traffic."

Thus, the need of equalizing competing ports and seaboards in their efforts to secure a share of the foreign trade of the United States has led to the establishment of special rates on export and import traffic.

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[2] The Import Rate Case, Texas & Pacific Railway Co. *vs.* Interstate Commerce Commission, 162 U. S. 197, March 30, 1896. See p. 48, *supra*.

IX

Export and Import Railroad Rates and Foreign Trade

In spite of the conclusion that the existence of preferential transportation rates is the result of competitive conditions, and for the purpose of enabling all of the ports to share in the foreign trade of the United States, is it possible to demonstrate that such railroad charges are also established to advance the international commerce of the country? Are there any evidences to prove this contention?

Export Trade.—Occasionally, the railroads have explained these special rates as a desire on their part to market in foreign countries the surplus products of the United States. Thus, in the New York Produce Exchange Case of 1889, this was the contention of the carriers, but they were unable to prove it before the Interstate Commerce Commission.[1] Professor Ripley, testifying before the United States Industrial Commission in 1901, stated that "The low export rates on cotton goods from New England to the Orient via Pacific ports, . . . were absolutely necessary to enable New England mills to expand their market and to overcome the competition of water routes."[2] In the same proceeding, Mr. C. A. Prouty, of the Interstate Commerce Commission, stated as follows:

"The railroads said that (these export rates) were necessary to meet market conditions abroad; that is to say, we could not sell our corn and wheat abroad unless they put in a lower rate which carried it abroad. Upon investigation, it turned out to the satisfaction of everybody, and was admitted by the railroad companies themselves, that this was not true; that, looking merely at these rates, which we had under investigation, there were no market conditions abroad which required charging a less rate on export than on domestic traffic. The rates had

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[1] New York Produce Exchange *vs.* New York Central & Hudson River R. R. Co., 3 I. C. C. 137. See p. 20, *supra.*

[2] U. S. Industrial Commission Report, Vol. 9, p. 299.

been charged entirely for the reason that our carriers were competing among themselves at home. The real reason is competition between carriers to the seaboard; that is what makes the low rate."[3] Additional contentions of the railroads that export rates were charged for the purpose of enabling the marketing of American products abroad, might be mentioned, but in every such instance the real reason underlying the establishment of such rates has been to equalize competing ports and routes.

But even though export rates are primarily to control competition they may have a great effect upon the export trade of the United States. In the marketing of cheap, bulky products throughout the world, in competition with the producers of rival nations, any advantage which the American exporter may enjoy, no matter how small, may be the deciding factor in obtaining the business. International competition in such products is intensely keen, and the addition or substraction of a few cents per unit in the cost of commodities laid down in a foreign port, may be of profound significance. Bulky products are themselves relatively inexpensive, and high transportation charges may entirely eliminate the goods of one nation on which such charges cause an excessively high price. To this extent then, railroad export rates may, and do, aid the export trade of the United States. Insofar as lower rail rates, which added to the prevailing steamship charges, give a through transportation cost which is low enough to enable American exporters to sell their products in competition with those of rival nations, they directly advance the foreign trade of the United States. Indeed, to those who are actively engaged in foreign trade the establishment of export rates for the purpose of enabling American products to be marketed abroad appears to be the prime reason for their existence. Thus, the National Foreign Trade Council, which is the spokesman for those Americans who are engaged in international commerce, has published the following resolution: "The principle of export railway freight rates to our seaboards lower than domestic rates, as a proper means for the encouragement of foreign trade, has been recognized for many

[3] Industrial Commission Report, 1899, Vol. 4, p. 146.

years, until the necessity of curtailment of exports of articles required for the prosecution of the war impelled the withdrawal of the export differential. The convention recommends the general reinstatement of the export differential."

Such a statement, coming from such a body of traders, cannot but impress a student of export railroad rates with their importance as one of the means of advancing American foreign trade. To the man who is vitally interested in the extension of American business throughout the world, this is their sole purpose; to the railroads which establish the rates and which are endeavoring to obtain as much business as they can possibly handle, export rates are primarily to distribute traffic, but they may also enable American products to be marketed abroad.

It must, however, be borne clearly in mind that unless export rates accomplish more than port equalization, this result wil not be achieved. Only in case railroad rates on exported traffic go farther than aligning ports which are in bitter competition for this business do they promote the foreign trade. Of what effect upon the export trade is the quoting of lower rates on foreign traffic than on domestic shipments to Gulf ports, for instance? It may appear that inasmuch as the rates are lower on export than on domestic business, just to that extent the exporter is able to quote a lower price. But this is fallacious; if the lower export rates were not quoted to the Gulf, no traffic would move via that route, but it would all pass out of the country through the cheapest gateways, which, for the competitive business of the Central West, are located on the North Atlantic seaboard. The effect of the rates is merely to enable those routes and ports, which are at a disadvantage in competing for the traffic, to obtain a share of the business; without the rates they would secure none of it. The combined rail-and-ocean transportation charges from a designated point in the United States to a specified foreign destination are the same via each of the routes struggling for a share of the traffic. The exporter saves on his railroad shipment to the Gulf, but he loses all he gains in the higher steamship rates in effect from Gulf ports. In those cases in which the ocean charges from the Gulf compare favorably with those in effect from North Atlantic

(the basic) ports, it will be noticed that the railroad rates to both seaboards are substantially the same.

But whenever special export rates are quoted to the BASIC ports, and the rates to other seaboards are adjusted with reference to this lower level, then a direct promotion of the export trade may be both a purpose and an effect. In such instances, the export rates are adjusted at amounts lower than necessary to accomplish port equalization. This latter purpose would be achieved by charging the regular domestic rates to the pivotal ports, and adjusting the charges to other seaboards upon this basis. If lower rates are quoted to the basic ports then correspondingly lower rates are named to the ports which are adjusted with reference to them. Such a practice manifestly extends beyond the requirements of port equalization, and grants to exporters rates that are lower than necessary to enable them to select the particular route via which to ship their goods. Such saving may be reflected in the prices they quote to foreign customers.

As indicated throughout Parts I and II, the rates at all seaboards of the United States are based fundamentally on those applying at the North Atlantic ports. The extent to which special export rates are quoted to this basic seaboard may then be taken as an indication of the extent to which preferential railroad charges promote the export trade. The fact that but few such rates are in existence leads to the conclusion that the cases in which the foreign trade of the United States is advanced by means of special export charges are indeed insignificant compared with the great number of rates in effect throughout the country.

One other significant fact should be noted in this connection, and that is the character of the articles on which special export "commodity" rates are charged. Export "class" rates reflect accurately the equalization of competing ports. Commodity rates which apply on specific articles only do the same thing, but they are lower than the rates which are quoted for the same traffic under the class tariff. Commodities so favored are usually cheap, bulky products which sell at relatively low prices. This practice is in line with that employed in constructing the great

rate structures of the country—cheap, bulky products cannot move unless low transportation rates are charged, and it is on this type of business, which moves in carloads and in trainloads, corresponding to "large scale production" which characterizes many of our industries, that the railroads make a large share of their profits. But is it not equally true that unless low rates were charged on such products when moving outside of the country, that they would not move at all? If American grain were eliminated from world markets because of excessive railroad charges, not only would the exporter of grain suffer, but the railroads also would lose this lucrative business. It is, therefore, to their advantage to enable grain and other bulky products to be sold in world markets by quoting low railroad rates for their transportation.

In conducting their domestic business the railroads frequently extend a low commodity rate to an industry in order that it may expand by giving it a market for its products, and the railroad profits by the increased business which comes to it. In the foreign trade in bulky products, identical conditions are encountered. Low railroad rates enable goods to move out of the country, and the railroads are compensated by the large-scale business which comes to them. In the case of manufactured goods, which sell in foreign markets more on the basis of quality, adaptability, style, make-up, etc., the question of price is not of paramount importance. The American manufacturer himself is largely responsible for the possibility of selling such products abroad. He needs little or no help from the carriers in marketing his surplus output. It is up to him to develop his methods of manufacture, his distribution machinery, his sales terms, and to a much less extent, his prices, if he desires to get into the export trade. But with the producer of cheap and bulky products, which sell at a price established in world markets and on the basis of definite and determinable grades, the price is all-important. On goods of the former type few export "commodity" rates are quoted; on the latter products, a great majority of the special "commodity" rates in existence are in effect. But the reason for this is as stated before—the desire of the railroads to handle this bulky and

lucrative business, and to share it among them. Every reduction in the cost of producing and delivering cheap, bulky materials places the American exporter in a better competitive position; any reduction in the transportation bill for specialized manufactured goods would more likely appear in surplus profits for the manufacturer because price, in this case, is of less importance. Export rates which do more than equalize competitive factors, or which throughout all the structures are lower than would apply under the class tariffs, give to exporters a decided advantage in railroad charges which may be of some aid to them in marketing their products abroad. The principle involved is, however, just as apparent in the domestic as in the export rate structure.

A just conclusion then would be that export railroad rates which are especially low, as under the commodity tariffs, or which are lower than corresponding domestic rates and exert a greater influence than mere port equalization, advance the foreign trade of the United States insofar as they enable American exporters to quote prices which place them on a competitive footing with the exporters of rival nations; and this effect is felt almost exclusively on those lines which are sold on the basis of price, and which could not be sold at all unless favorable transportation charges were imposed.

Moreover, the declared purpose of export rates—the distribution of traffic among competing ports—is in itself a factor that would tend to increase the export trade of the country, because it aids in preventing congestion at those few ports at which facilities for carrying on foreign trade are much better developed and which would, except for the export differential, obtain the bulk of the foreign business. By having the choice of several routes, exporters are sure of prompt service in getting their orders delivered to foreign customers. Prompt delivery is one of the surest methods by which an exporter can hold his business; if he fails to deliver promptly, the foreign buyer will place his order with the producer of some other country from whom he can obtain the service which he demands. Unless the poorer facilities of ports outside of the North Atlantic seaboard were equalized by a concession in rates, exporters would be unable to

use them because of the combined higher price and poorer service.

Import Trade.—The relation between import rates and the import trade may be discussed in a similar manner. In but few instances has it been possible to detect any connection between the existence of import rates and the desire of the railroads to promote the import trade of the country. One such case was that of the Pittsburgh Plate Glass Co. vs. Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co.,[4] although the desire to distribute business among competing ports was assigned, even in this proceeding, as the principal reason for the existence of import rates. Moreover, the method of quoting through water-rail rates from a foreign point of origin to an interior destination in the United States, which was quite prevalent at the time of that proceeding (1908), has since been abandoned and this case cannot be well considered in the light of present practices. In practically all cases, however, the desire of the railroads to distribute the import business equitably among all competing ports and routes, has, as in the case of export rates, been the dominant reason for the establishment of import rates.

Another similarity to be noted between railroad export and import rates, is the fact that the vast majority of the specially low import commodity rates also apply on cheap, bulky products. The same explanation as to how the export commodity rates enable American producers to market their products abroad in competition with the producers of other nations, may be cited to show how necessary raw materials may be obtained from foreign countries. The effect is more indirect, however. Such commodities, as stated before, are sold throughout the world on the basis of price, and the existence of "commodity" rates which are lower than those which are quoted for the same articles under the class tariff, enables American manufacturers to obtain needed raw materials at lower prices. This same influence would be exerted if import rates could be shown to do more than equalize competing ports. The price at which the finished product may be offered in the market is correspondingly lower,

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[4] See p., 54 *supra.*

and in case of effective competition from foreign manufacturers seeking to market their goods in the United States, the American producer is much better able to hold his own.

It is highly improbable, however, except in possibly a few dispensable commodities, that the existence of unduly high railroad import rates would exclude foreign raw materials from the American market. Raw materials are imported because they are unobtainable in the United States, or because they can be purchased abroad at a less price than they could be secured in the United States, or because the supply produced in this country is insufficient to meet the demand. Usually, the former or the latter reason accounts for imports. Such being the case, American manufacturers, if they care to keep their factories running, must obtain necessary raw materials, no matter what the price may be. If the price be too high, due to excessive import railroad rates, it may necessitate the shutting down of their factories, because the same commodities may be produced at a much lower cost by a foreign manufacturer (eliminating, for the present, the question of import duties). It is scarcely conceivable, however, that railroad rates on imported raw materials would be so high as to prevent American manufacturers from purchasing those which are essential in their industries. If such were the case, it would be a suicidal policy for the railroads to pursue, because it would deprive them of much lucrative business which they would by charging reasonable transportation rates, be able to secure. Moreover, the tariff policy of the country would usually shelter the American manufacturer by imposing a duty on that article in the production of which the foreigner would enjoy an advantage.

In this respect then, the effect of export rates and of import rates on the foreign trade of the United States is much different. The former may exclude American products from world markets, but it is highly improbable that the latter, insofar as they apply on cheap, bulky products, would exclude foreign raw materials from the American market.

As to the existence of import rates upon finished goods, the effect is somewhat different. Imported manufactured articles compete with similar products turned out in the United States,

while instances of such competition in raw materials are comparatively few. The fact that producers of other nations are able to market their goods in the United States is evidence of their greater effectiveness in carrying on production. The extent to which import rates give them an advantage in railroad charges over the American producer, places them in a still more favorable position to compete. But, as stated before, this result would not be accomplished unless import rates achieve more than port equalization. The existence of import duties must necessarily be considered in this connection and this subject will be dealt with in Chapter X.

Import rates may, however, if adjusted at an exceptionally low level throughout the country, have the effect of increasing the import trade of the United States by providing manufacturers with a large supply of essential raw materials at minimum prices, and if the manufactured goods into which the raw products go, enjoy an elastic demand, production may be carried on to a greater extent than would be possible if the price of the finished product had to be increased in order to pay for the greater cost of the raw materials.

The purpose of import rates in distributing the import traffic among competing ports may, as in the case of export rates, have the effect of facilitating, and in some cases, increasing, the import trade of the United States. Congestion and delays, due to the assembling of the bulk of the imports of the country at a few ports, may prevent a manufacturer from obtaining raw materials when he needs them, therefore causing him to refrain from ordering at that particular period and to shut down production.

The reciprocal relationship between the export and import trade should be mentioned at this point. It is a fundamental principle of international trade that a nation must buy if it desires to sell and vice versa. The method by which a nation is paid for the goods which it sells to other nations is by receiving goods in return. Merchandise exports and imports need not balance, if such invisible items as ocean freight and insurance services, investments, etc., enter into the equation. But for any long period of time, the total received by a nation from all

sources must balance the total sent out to other nations. This being the case, it is obvious that the more a nation buys the more it can sell and vice versa. Now if railroad export rates exert, as an indirect effect upon the foreign trade of the United States, sufficient influence on the price of exported commodities as to enable American exporters to sell more in foreign markets than they would otherwise be able to sell were it not for such favorable rail rates, then the United States, as a whole, is in a position to absorb greater quantities of goods from foreign countries. The expansion of the export trade of the United States due partly to the existence of favorable railroad rates would thus tend to increase the import trade. This reciprocal action is manifest in the foreign trade statistics of any country; particularly for those nations whose products are agricultural in character, in which case a poor crop is readily detected in these figures. They have little to sell because of the poor harvest, and in return are unable to purchase from foreign countries more than they absolutely must. Any effect, therefore, that export rates may exert upon the export trade, or that import rates may exert upon the import trade of the United States, will be reflected upon the other.

If a large number of export or import rates revealed, as their purpose, more than the equalization of ports, this would be the effect today. But the only instances in which the foreign trade is advanced are those in which special rates are quoted to and from the basic ports which are those located on the North Atlantic seaboard. The limited number of commodities so favored is evidence of the slight influence exerted by the present export and import rate structures upon the international commerce of the United States.

X

Railroad Import Rates and Import Duties

Another phase of the subject of preferential transportation charges and foreign trade is the relation between railroad import rates and import duties. The purpose of this chapter is to establish such relationship, provided there be any discernible.

From a cursory examination of this subject, one may easily be led to believe that reductions in import railroad rates do, *pro tanto*, offset import duties. To take a simple illustration: Suppose the railroad rate on kaolin for a domestic shipment from New Orleans to Louisville were $10.00 per ton; if an imported shipment, the rate is $8.00 per ton, and the import duty on this commodity is $2.50 per ton. The imported shipment is thus favored in the railroad rate to the amount of $2.00 per ton which practically offsets the import duty. Instead of obtaining the protection intended by the tariff laws, domestic shippers are apparently forced by the railroads to compete with the imported product on a substantially equal footing.

The problem is much deeper than this, however. Conclusions cannot be drawn merely on the basis of the disparity of rates on domestic and imported traffic as compared with import duties. There must be given due consideration the purposes for which import rates are established and the influence which they exert. It has been explained in the foregoing pages that the entire export and import rate structure of the country is predicated upon the principle of port equalization, and that the accomplishment of this purpose is the effect of preferential transportation rates. Applied specifically to import railroad charges, it becomes apparent that before conclusions can be reached that import rates offset import duties, the influence of port and route competition must be considered. Traffic brought into the United States from foreign countries is not forced to pass through one port or one seaboard only because of some advantage possessed by it over all of the others. By

means of import rates, commodities may be shipped through the ports of nearly all seaboards, because the same through transportation charge from the foreign port to the destination in the United States is incurred. Imports from the Far East may enter the ports of the North Atlantic, Gulf or Pacific seaboards on substantial equality in rates. This, as explained before, adds greatly to the fluidity of international commerce. The apparent reduction which the importer at San Francisco, for example, receives in the railroad rate on the imported goods he ships across the continent to some interior point in the Central West does not offset import duties and neither does it accrue as profit to the importer. If the railroads leading from the Pacific Coast did not make this concession in the rates, the traffic would come into the country via the Gulf or North Atlantic seaboard, and the western lines would lose this traffic. The reason this would occur is that lower through rates from the Far East to the interior destination in the United States would be obtained if the goods were shipped through New York, Philadelphia, New Orleans, etc. These ports are at a disadvantage in the ocean rates, but due to shorter rail hauls, this disadvantage is more than offset. It becomes apparent, therefore, that competing routes and rates must be first considered before it can be concluded that import rates nullify import duties.

Leaving this phase of the subject for later discussion, there are several facts which may be noted that demonstrate the absence of any relation between import rates and import duties as a railroad policy.

The question may rightly be asked that if such were the purpose of low rates on imported products, why do not railroad rates reflect changes in the tariff laws? Many of the adjustments now in effect are of long standing, as traced in Part I, and have remained uniform in spite of the divergent tariff acts which have been in effect. The Tariff Act of 1922 would undoubtedly have caused a great increase in the number of import rates quoted or a lowering of those rates previously granted, if the aim of the railroads were to offset import duties. The import rate adjustments having been devised to meet port

competition, the tariff policies of the United States have exerted no influence on them.

Again, the fact that import rates are extended both to articles which are dutiable and which are on the free list, tends to disprove any intentional relation between railroad rates and import duties. A large number of the commodities on which special import rates are granted are admitted into the country free of duty and some of the widest differences between domestic and import rates apply on them. It is apparent that preferential transportation charges, thus extended without respect to the duty imposed on an imported article, do not bear any relation to the tariff laws. The railroad rates are adjusted according to the conditions of port competition and the tariff duties are devised on an entirely different basis; the former vary according to the shipment, whereas the latter are uniform for the entire country. And yet, because of their diversity, import railroad rates accomplish substantial uniformity in the through transportation charges via many ports and seaboards, thus fostering competition.

Lastly, the export rate structure may be briefly considered as to its effect upon import duties in foreign countries and for a possible analogy to be applied to import rates.

Export rates, for example, from the Central West apply on many commodities destined to the Far East, when routed via Gulf or Pacific Coast ports. On but a few commodities are special rates granted to North Atlantic ports. If the traffic moves through the latter seaboard, the regular domestic rates are charged; if it passes through the Gulf, a lower rate is quoted, and if routed via Pacific Coast ports, still different charges are in effect. On a particular commodity destined to a given Far Eastern country, three different railroad rates are in effect in the United States. If the policy of the American railroads serving different seaboards were to adjust rates on export traffic for the purpose of overcoming import duties in foreign countries, different rates would be made at each port area. The rates are adjusted so as to equalize competing ports and seaboards. and export traffic may flow through any of them at the same combined rail-and-water rate to the foreign destination.

The same reasoning can be applied, with equal force, to the import rate structure. The railroads in establishing different levels of rates at competing seaboards, do so for the purpose of distributing the import business among them, and shippers may select among several competing routes, all of which are on an equality insofar as rates are concerned.

Referring again to export rates, one further fact may be mentioned. The foreign countries to which the exported traffic must be consigned in order that the special rates may apply are, if limited at all, embraced within wide areas. The same export rate applies on traffic destined to China as well as to Australia. The former imposes comparatively low import duties, while the latter is well known for its high protective tariff. Any American railroad rates which are designed to offset import duties abroad would certainly be adjusted according to the widely divergent tariff policies of foreign countries. Thus, it is again demonstrable that inasmuch as railroad export and import rates bear no relationship whatever to the tariff laws of either the United States or foreign countries, they are not designed to offset import duties.

For the foregoing reasons it may be concluded that import rates are established to control port and route rivalry and bear no relation to the tariff laws.

But it is one thing to state the purpose of a plan and a much different thing to discuss its effect. What is the practical relationship between import rates and import duties?

Even though preferential transportation charges are devised for the purpose of equalizing competing ports they may exert an influence greater than this. In two cases decided by the Interstate Commerce Commission,[1] this influence was found to be the neutralization of import duties, *i. e.*, the import railroad rates did more than accomplish port equalization.

In passing upon these cases, the Interstate Commerce Commission recognized an important factor in determining whether or not the transportation charges did offset the import duty.

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[1] In the matter of Rates Upon Import and Domestic Traffic, 9 I. C. C. 650 (1903); and Pittsburgh Plate Glass Case, 13 I. C. C. 87 (1908). See pp. 51 and 54, *supra.*

Not only must the rates from the various competing ports be considered, but also the charges in effect from American points of production of the same commodities. If the American producer is excluded from the market because foreign products can be offered at a lower price, in spite of a protective import duty, it may indicate that the low preferential railroad rate has offset the duty. But this cannot be conclusive because greater efficiency or effectiveness of production may enable the foreigner to compete, irrespective of the tariff duty. In the two cases mentioned, however, the transportation charges were so plainly and so greatly discriminatory to American producers that the commission decided that they did neutralize the protective tariff rates. In the investigation of 1903 it was shown that the through rate plus import duties on cement from foreign ports to destinations in the United States was the same as or lower than the rail rate from American points of production to the same destinations. The import rate applied from Newport News, Va., and the American point of production was Vulcanite, N. J. No domestic traffic in cement moved from Newport News and unless the Chesapeake & Ohio Railroad had quoted a low rate on imported cement, it would have had none of this commodity whatever to haul. It was for competitive reasons that the railroad established the rate, but the effect was to enable foreign producers to under-bid American manufacturers, notwithstanding the import duty with which Congress had intended to protect them.

In the Pittsburgh Plate Glass case it was shown that foreign glass could be carried to interior points of distribution in the United States at lower through charges including import duties, than could the American product be transported to the same points. The advantage given to imported plate glass was so great as to suggest strongly that the import rate was for the purpose of neutralizing the tariff duty. As in the preceding case, the efforts of the railroad to secure business resulted in unjust discrimination to American producers, and the rail rate was so low as to entirely offset the tariff duty imposed on plate glass.

In both of these cases, import rates were shown to offset

import duties, although the former were established to meet competitive conditions. They neutralized the import duties because they accomplished more than was necessitated by competition.

This principle is the only one which will satisfactorily indicate whether or not import rates offset tariff duties today. Granted that the import rate structure is devised to equalize competing ports and routes, it may be shown that if more than this is accomplished, the neutralization of import duties is the result.

In Part II, the import rate structures of the country were analyzed and it was shown that at each seaboard of the country, with the exception of the North Atlantic, a large number of import rates are granted. The effect of these rates is to equalize ports and routes by making uniform the through transportation rates into the United States via any of them. The North Atlantic seaboard is basic for all of the others; if import rates are granted from ports in this area, the rates from the ports on the remaining seaboards would be correspondingly reduced. It becomes apparent, therefore, that if any neutralization of import duties is accomplished by import railroad rates, it will occur at the North Atlantic ports. Low rates on imported merchandise are not required at this seaboard, because it is the basis for the structure throughout the entire country. If such rates are granted, it is evident that they do more than equalize competing ports, because this would be accomplished by the higher domestic rates. At the present time, import rates are granted to twenty-eight commodities when imported through any North Atlantic port and destined to specified Central Western points.[2] Under the new tariff of 1922, approximately one-half of these commodities are dutiable, and one-half free. On those which are dutiable it may safely be stated that the import rate neutralizes the import duty in whole or in part. There can be no other explanation of the effect of import rates at this basic seaboard of the country.

One fact concerning these duties should be borne in mind, however. Practically all of these twenty-eight commodities

[2] See p. 80, *supra*.

are imported into the United States. They are not produced in this country and do not move from any of the ports in domestic business. In other words, the domestic rates are only "paper" rates which are not employed, because all shipments take the import rate. Moreover, it should be noted that the dutiable articles so favored are of very slight importance in the import trade of the United States. But whether the domestic rate or the import rate be taken as basic, the fact remains that the latter is lower and competitive conditions are such as to enable the lines leading from the North Atlantic ports to charge the full domestic tariff on these commodities.

Under the import rate structure, the rates from the other seaboards of the country are generally based upon the rates from the North Atlantic. In most instances, the latter charges are the regular domestic rates and, therefore, port equalization, and not neutralization of import duties, is accomplished. On the dutiable commodities mentioned above, however, the rates from these other seaboards are correspondingly reduced, and they offset import duties in whole or in part. Let us assume a fifth-class rate of 50 cents on import traffic from New York to Cincinnati; under the current adjustment the rate from the Gulf would be 42 cents. The New York rate is, in this case, the regular domestic rate and neither at New York nor at the Gulf are import duties affected. But if a special import rate of, say 45 cents, is quoted from New York, the Gulf rate basing upon this, will be 37 cents and not 42 cents. At New York the import duty is partly or wholly neutralized; at the Gulf the same result obviously occurs in addition to the port equalization which is accomplished by means of the differential adjustment. The rates at both seaboards are lower than is required by competitive conditions, and the excessively low rates affect import duties uniformly at all the ports involved in the rates.

In conclusion then, it may be affirmed that import rates do not generally offset import duties, but in specific instances when such railroad charges are lower than is required for competitive reasons, the neutralization of import duties, in whole or in part is accomplished, provided, of course, the particular article is dutiable.

XI

Export and Import Railroad Rates and the Merchant Marine

One possible additional purpose of export and import rates should be mentioned, namely, the promotion of the American merchant marine. This phase of the subject has attracted wide attention since the passage of the Merchant Marine Act of June 5, 1920. Section 28 of the Act provides that special export and import rates shall be granted only on traffic moving into or out of the country in vessels documented under the laws of the United States. It is further provided, however, that if the United States Shipping Board is of the opinion that adequate steamship facilities do not exist at any port, it shall certify such fact to the Interstate Commerce Commission, which shall suspend the operation of Section 28 "for such length of time and under such terms and conditions as it may prescribe." Such suspension "may be terminated by order of the Commission whenever the Board is of the opinion that adequate shipping facilities by such vessels to such ports are afforded and shall so certify to the Commission."

Pursuant to the provisions of the act, the Shipping Board on June 9, 1920, certified to the Interstate Commerce Commission that such facilities as contemplated by Congress were not available and requested the suspension of Section 28 for ninety days. This was done.[1] Later, the Shipping Board decided that ninety days was insufficient time to properly investigate the subject and asked the Interstate Commerce Commission to further suspend Section 28 for the remainder of 1920. On July 27, 1920, the latter complied with this request, suspending the operation of the section until January 1, 1921.

On December 10, 1920, the Shipping Board passed a resolution, requesting still further non-operation of Section 28 until the

[1] United States Shipping Board, Annual Report, June 30, 1921.

board should take further action and until adequate facilities were obtained. In compliance with this resolution the Interstate Commerce Commission suspended the operation of the provisions of Section 28 from and including January 1, 1921, until further order of the Commission, which will be based upon recommendations of the Shipping Board.

The Shipping Board has since this time, been studying the situation and holding hearings relative thereto in order that it might determine whether or not adequate facilities were available so that the suspension of the section might be removed. To date, the board has not arrived at this conclusion and section 28 is still inoperative.

In determining the adequacy of steamship facilities, the Shipping Board not only considers the amount of tonnage, but also the type of vessels. At present, the low-speed, tramp type of vessels prevails and these cannot compete with the high-grade, speedy freighters operating under foreign flags. Until this condition is remedied, section 28 will remain under suspension.

The purpose of export and import railroad rates, as indicated by the history and structures discussed in the preceding chapters, is primarily for port and route equalization. One of the factors considered in the alignment of ports is that of steamship service, but no attempt whatever is made to distinguish between American and foreign vessels. The enforcement of section 28 would place the emphasis of export and import rate structures upon the shipping service, and only that share which is rendered by vessels documented under the laws of the United States. Such a basis for export and import rates is novel in the United States and involves various difficulties.

The Shipping Board has, as stated above, confined its attention to a determination of the adequacy of American steamship service, embracing both number and type of vessels. This is solely a question of fact. On the other hand, the Interstate Commerce Commission, in carrying out the recommendations of the board in its suspension orders, has indicated what, in its opinion would be the effects of the enforcement of section 28.[2]

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[2] Interstate Commerce Commission, 35th Annual Report, 1921, pp. 13 and 14.

The commission views this question from four angles:

1. The diversion of *traffic:* As explained in Part II, *supra,* export and import rate structures are frequently based upon the lowest domestic rate applicable to or from any port in a given seaboard. Usually, this domestic rate is applied as the rate on foreign traffic handled at all of such ports. As each point of origin is nearer to some one port than to another, it follows that between certain points and certain ports preferential rates and domestic rates are on a parity. Even in other rate-making plans, the disparity between foreign and domestic rates varies greatly in given instances, the commission contends.

"When Section 28 becomes operative, it is probable that export and import shipments moving in foreign vessels will seek the ports having the lowest domestic rates and at these ports the foreign vessels will be able to compete upon practically equal terms with the United States vessels. The ultimate effect of Section 28 may be merely to divert traffic from certain ports to others with little or no gain in tonnage for United States vessels."[3]

At the present time, the charges on export and import traffic which is carried at special rates are, in practically every instance, lower than corresponding domestic rates. The principal exception to this is when domestic and preferential rates are the same and this occurs at the pivotal or key ports. The only ports at which foreign vessels would be on an equal footing with American tonnage in the matter of railroad rates on traffic for which preferential charges are provided, would, if section 28 were enforced, be at the pivotal ports. It is logical, therefore, to expect that foreign vessels would congregate at those ports. The excellent steamship service which would be thus provided would induce shippers to route their orders via these ports, as they would lose nothing in the railroad rate. The ultimate effect would probably be, as the commission states, the diversion of traffic to the basic ports, "with little or no gain in tonnage for United States vessels."

But it is possible that if export and import rates are to be

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[3] *Ibid.*

constructed with reference to the American steamship facilities available at the various ports, there may be no instances in which domestic traffic would be carried at as low rates as foreign traffic. That which is handled by the basic ports might be carried at rates lower than the corresponding domestic rates, and the existing relationships of other ports would be established upon this lower basis. The Shipping Board had something of this nature in mind when, in its 1921 annual report, it stated that a study was being made with a view to requesting the Interstate Commerce Commission to provide the rate-structure machinery necessary to place the section in operation as soon as it should be determined that adequate steamship facilities were available.

If this plan should be followed, there would be no ports in the United States at which foreign vessels could obtain traffic which is carried at as low railroad rates as traffic which is handled in American vessels. Foreign tonnage would thus be at a disadvantage at all ports.

But even under these circumstances, it is probable that foreign vessels would still congregate at the basic ports; the ports at which they would operate under the least disadvantage. Under the forces of competition, it would be at these ports that foreign ships would make their stand and fight for business. The usual weapons employed under such circumstances are cut rates or improved service. It is quite probable that the foreign vessels by these methods, would force an agreement with the American lines whereby the former would be assured a share of the tonnage. It is even conceivable that, with the pressure that concerted action of the foreign ships could bring to bear, they would be classed as "differential" lines and authorized, by common agreement, to quote steamship rates which would be low enough to offset the disadvantage in rail rates.

It appears, therefore, that if section 28 were enforced, traffic and steamship tonnage would locate at the basic ports of the country, where foreign vessels would be either on a parity with American lines, or would be at the least disadvantage with them. Such an effect would be directly contrary to the principle which has shaped the present export and import rate structures,

namely, the principle of port equalization. The frequent controversies which have characterized the development of these structures have been traced in Part I, *supra;* the revival of these struggles and the loud complaints of the ports and railroad lines which would be deprived of traffic, may be readily anticipated should section 28 become operative. Irrespective of what aim may actuate the establishment and application of export and import rates, the principle of port equalization will still remain paramount.

2. Effect of section 28 upon the ports: The commission states that the adequacy or inadequacy of tonnage varies according to market conditions and the hazards of operation. There may be adequate facilities at one port at a given time, which would enable the enforcement of section 28, while at other times, facilities may be inadequate and section 28 would be suspended again. This condition may be illustrated by the flocking of vessels to Gulf and South Atlantic ports during the cotton-moving season. The commission contends that inasmuch as port facilities are costly the varying use of such facilities under the alternating operation and non-operation of section 28, would result in high charges to be borne by the public.

This argument is doubtless correct if section 28 is enforced at some ports and suspended at others. Should, however, the preferential rates which are extended when the section is in operation be of sufficient influence to enable shippers and importers to profitably route traffic through the port so favored, it would be very likely that the American vessels operating there would remain. Should they go to other ports at which railroad rates on foreign traffic are the same as those on domestic, they would lose the competitive advantage which they possessed. Shippers would route their goods to the preferred ports because of the saving they would realize in the freight rate, and this inducement should provide sufficient tonnage to warrant the maintenance of adequate steamship facilities.

3. Difficulties of enforcing section 28: Again, the commission points out the insurmountable difficulties of enforcing section 28 citing grain as an example.

Grain moves from the Central West to the seaboard for

export under so-called transit privileges. (This service enables the shipper to unload the grain enroute, have a commercial process performed upon it, and then to reship to destination the through rate being protected. Many other commodities are granted a like privilege.) The grain is usually unloaded into an elevator for grading, cleaning, etc., and is placed in bins with other grain of the same grade. As long as one year is allowed for it to remain in the elevator. Considerable difficulty is now experienced in policing this practice because of the great possibilities for fraud. The commission contemplates much greater difficulty if section 28 should be in operation as the grain "moving in the same train, from the same elevator to the same port for the same vessel" may be subject to varying railroad rates. On some of the grain an export rate may be in effect under section 28, and on other grain shipped from other points, there may be no export rate; while from the same point of shipment there may have been an export rate when some of the grain was shipped, and this rate may have been subsequently cancelled and the domestic rate applied on other grain. The great difficulty in preventing fraud is recognized because all grains of a particular grade are placed together, and it is practically impossible to determine whether or not a shipment is entitled to a lower export rate which may have been effective nine months or a year before the product is shipped out of the transit house.

It appears to the writer that this argument against the enforcement of section 28 is too strongly stressed. The rate which is charged on all commodities to which transit facilities are available is the rate on the finished product which was in effect at the time of original shipment. This is always evidenced by shipping documents. Railroad tariffs will plainly show the rate that was effective on the date of original shipment, and upon surrender of the in-bound shipping papers (as is always required) the balance of the through rate at which the finished product is to be carried can be readily determined. The frauds perpetrated under transit privileges mainly involve weights, identity of products, etc. It appears, therefore, that no greater difficulties would be experienced in regulating transit services if section 28 were in operation than are now encountered.

4. Difficulties of grain dealers: Finally, the commission cites the losses to which grain dealers would be subjected if section 28 were enforced as an argument against its operation. The practice in the oversea grain trade is for dealers at primary markets in the United States to quote prices delivered at port of shipment, and for the foreign buyers to supply the vessel. Under section 28, a lower railroad rate may be charged if the vessel is of American registry than if it is under a foreign flag. But the exporter must quote his price without knowledge of the registry of the vessel which the buyer will provide. It would be merely a matter of guess-work as to whether an American or a foreign vessel would carry the grain. If he should guess that it is the former and find later that he is wrong, he would suffer a severe loss, while if he figures as part of the price the higher rate for traffic carried on foreign vessels, his price may be too high to obtain that particular order. Competitive factors would force him to choose the first alternative and take his chances.

This argument is doubtless correct. The price of wheat is fixed in Liverpool and the price in the United States, when on the export basis, is the Liverpool quotation less transportation and all other items of cost incurred between the United States and Liverpool. As the exporter quotes his price delivered at port of shipment, he receives an amount which is the Liverpool price less principally the steamship freight from New York, for example, to Liverpool. Out of this sum he must pay the railroad freight and other costs from say Chicago to New York, which would in all probability, be figured on the basis of the lower export rate as it now is. Under section 28, however, this lower rate would apply only in case an American vessel performs the ocean transportation, and if the buyer should provide a foreign ship, the exporter would lose the difference between the export and domestic railroad rates.

The preceding points indicate that the Interstate Commerce Commission is considering the economic effects of the enforcement of section 28, whereas the Shipping Board has expressed itself only in the matter of inadequacy of American steamship service. The Act mentions the latter only as a reason for suspending the operation of section 28. In its Thirty-fifth Annual

Report (1921) the Interstate Commerce Commission requested Congress to reconsider the statute in the light of the economic circumstances which it pointed out. Acting upon this request, an amendment was submitted which provided that when the Interstate Commerce Commission and the Shipping Board are of the opinion that the operation of section 28 will materially change the channels of transportation within the United States, or unduly congest ports of the United States, the commission may suspend its operation. This amendment was never enacted into legislation, however, and the adequacy of steamship service is still the sole basis upon which continued suspension of the section may rest.

Several other points may be presented as arguments against the operation of section 28.

It is a well-known fact that American vessels cannot be operated at as low a cost as can foreign ships. By means of conference agreements, however, the rates are maintained at the same level by nearly all lines. Now, if foreign ships are discriminated against in the matter of railroad rates, it is likely that a revision of steamship rates would be made which would offset this disadvantage; or rate wars might ensue in which foreign vessels could cut the rates far enough below the level of charges maintained on American ships to attract a share of the business. In either case, the combined rail-and-ocean rate from an interior point in the United States to a foreign destination, and vice versa, in the opposite direction, may be the same whether the traffic is handled by an American or a foreign vessel. And in the event of rate wars, it is possible that the through rate, when shipment is made on the latter, would be even lower than the rates via American ships.

There would then be no reason for American foreign traders to ship on vessels flying their flag because it would involve no saving to them. Sentiment and patriotism cannot be relied upon to carry out a national policy unless the appeal be made through the individual pocketbook. The intent of section 28 is to encourage the use of American vessels by means of the lower through rates which may be obtained when they carry the shipment; the effect of the statute may be to wipe out this

attraction, and in some cases, to cause more favorable through rates on traffic handled by foreign vessels.

It is thus doubtful whether or not the advantage in railroad rates which American ships would obtain under section 28 would be sufficient to offset the possible disadvantage which they might face in ocean rates. Experience may demonstrate that exceptionally low railroad rates may be needed on foreign business in order that American vessels may maintain the service contemplated by the statute.

If this should be the case, it is obvious that rates on domestic traffic must be correspondingly increased, because the railroads cannot be expected to subsidize the steamship lines. Moreover, under the terms of the Transportation Act of 1920, the rates of the railroads are to be adjusted in such a manner that the railroads in any particular section of the country will earn an annual net railway operating income equal to a fair return on the value of the property used in the transportation service. The Interstate Commerce Commission is given the power to determine the specific return to which the railroads are entitled, and at the present time, this is 5¾ per cent. It is not likely that this basis of railway earnings will be lowered.

Another unfavorable effect of the enforcement of section 28 might be the storm of protest which the discriminations between rates on foreign and on domestic traffic would probably bring forth. The familiar plaint of taxing the farmer to pay the American ship operator and the big "trusts" which operate their own vessels, would again resound through the halls of Congress. The discriminations which now result from the present export and import rate structures are of a subdued character. In but few instances has any complainant been able to uphold his contention. Numerous competitive factors account for the special rates; no one interest is favored. But the discriminations which would result from the enforcement of section 28 would be for the benefit of one, definite interest, namely, the shipping companies. The sentiment of the country toward taxing the people for the maintenance of our merchant marine has been expressed in the recent defeat of the Ship Subsidy Bill. Even if the disparity between rates on domestic and foreign

traffic should be but slight, the political reaction mentioned above would, without doubt, follow. Railroad rates are an economic question and if they are placed in politics, there is no prognosticating the results which might follow.

Again, it might be that if the Interstate Commerce Commission should continue to view with apprehension the economic effects of the operation of section 28, it might require the railroads to cancel all of their export and import tariffs and to quote only domestic rates on all business. This action would not be consistent with the intent of Congress, but it would certainly conform accurately and literally to the wording of the statute.

It is inconceivable, however, that the commission would take such action.

The first and greatest danger of enforcing section 28, in the view of the commission, is that of congestion of traffic and tonnage at basic ports and the diversion of shipments to these ports. If the export and import rates which have been devised to distribute business among all ports should be cancelled, traffic would naturally gravitate to the ports which would possess all of the advantage under the regime of domestic rates. These would, in practically all instances, be the North Atlantic ports. The commission having already foreseen this result it is impossible to conceive of the cancellation of all export and import rates.

If preferential rates should be established under section 28, American importers would find themselves in various predicaments. The foreign exporter is the one who ships the goods and out of interest in his customer, he will ship in American vessels because of the saving to the buyer, provided he can obtain one. It is impossible for a country to carry all of its exports and imports; even the United Kingdom carries only two-thirds of her goods. It is unavoidable, therefore, that some importers will pay a lower railroad rate than will others. The inequalities in ability to compete which would constantly arise would undoubtedly call forth loud complaints.

The only way in which importers could avoid such losses would be to have their orders routed via the basic North Atlantic ports whenever an American vessel could not be secured. As

there are few import rates at the latter ports the nationality of the vessel would affect the railroad rate in but few instances. The effect would thus be to divert traffic to Boston, New York, Philadelphia and Baltimore where domestic and import rates are usually the same.

As for the exporters, the effect would be somewhat different. In most instances they are in a position to select the vessel which is to carry their orders abroad. In making shipments on routes and traffic for which export rates are in effect, they would take care to secure an American vessel. But this would again result in the congestion of traffic at the basic North Atlantic ports for the following reasons:

These ports, being fundamental in the export and import rate structures, have comparatively few special rates. With but few exceptions the export traffic shipped through New York, Philadelphia or Baltimore is carried at the regular domestic rates. It would make no difference then, to the exporter, whether his shipment be carried on American or on foreign vessels. As stated before, foreign ships would congregate at these ports and provide the tonnage needed to carry almost any amount of business.

The ports located on other seaboards, however, are granted special rates based on the rates of the North Atlantic ports. The exporter, in shipping to these sections, would lose money unless American vessels perform the ocean haulage. Foreign lines, because of the discrimination at these ports, would be engaged in the North Atlantic trade. It is scarcely possible that sufficient American vessels would congregate at ports outside of New York, Philadelphia and Baltimore to carry all of the traffic of these ports. The result would be to cause exporters to route some of their shipments which now go to the Gulf, for example, to the North Atlantic ports, where they would lose nothing in the rates. Once more, the effect of section 28 would be to divert traffic to the basic ports and deprive other ports of some of the business which they now secure.

One other difficulty which might arise is that of retaliation on the part of those foreign countries which might feel the discrimination engendered by the act. The nations so affected

would be those extensively engaged in the carrying trade, principally the United Kingdom. It is entirely likely that some form of retaliation might arise which would offset all the advantage which might accrue to the American merchant marine under section 28. The international difficulties would be exactly the same as those which were feared by both President Wilson and President Harding, when they refused to carry out the provisions of the Tariff Act of 1913 by cancelling all of our commercial treaties which prohibited discrimination in custom duties, based on the nationality of the carrying vessel. Whether the discrimination be in custom duties or in railroad rates, the effect upon foreign countries would be the same.

If, however, as it appears from the foregoing discussion that foreign vessels would enter those trades in which they would be on an equality with American ships, there might be no occasion for retaliation. The congestion of traffic at the basic North Atlantic ports would give to foreign lines sufficient business to warrant their remaining at these ports.

As to the advisability of the operation of section 28, no proof can be presented. Its efficacy can be tested only by experience, and the bodies which are charged with the administration of the section have expressed this opinion.

The only argument that can be presented for the enforcement of the statute is the desire to maintain an American merchant marine. Now that the United States has, since the war, become so actively engaged in foreign trade, American steamship service is a necessity. One of the surest ways of gaining the goodwill of customers, and building up a profitable overseas business, is to make prompt deliveries. This is especially important in the non-European trades where the countries are largely dependent upon foreign supplies. If our deliveries are in the hands of foreign steamship lines no adequate service is assured. In the past, many instances have been cited showing the discriminations which these lines have practiced against American shippers; or the revealing of confidential information as to qualities, customers, etc., for the benefit of competitors of American exporters. Then again, the occurrence of an emergency, such as the late war, may suddenly cause the discontinuance of all

foreign steamship service, thus causing considerable embarrassment to shippers who are dependent upon it.

Section 28 is but one method designed to aid the American merchant marine. The Ship Subsidy Bill was another, but it failed to become a law. Nevertheless, the present administration is determined to keep afloat the ships flying the Stars and Stripes by means of government operation, if private buyers for these vessels do not appear. But in spite of the need for an American merchant marine, and the fact that some aid must be extended if it is to thrive, it appears to the writer that section 28 would disrupt the channels of traffic and congest business at the basic ports, at the same time giving little or no aid to the merchant marine. The aim of the statute is good, but its effect would be disastrous.

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